



CITY COUNCIL

WORKSHOP AND REGULAR MEETING AGENDA

July 5, 2023
7:00 PM
202 Railroad Avenue, Rifle, CO

6:00 PM - Workshop Meeting

Discussion and Review

- a. Receive 2023 Financial Update (1/1/2023 - 6/30/2023)

7:00 PM - Regular Meeting

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Public Comment** *(maximum time permitted for Public Comment is 3 minutes per person)
5. **Consent Agenda**
 - 5.a. Consider Minutes of the June 7, 2023, Regular Meeting
 - 5.b. Consider Minutes of the June 21, 2023, Regular Meeting
 - 5.c. Consider Liquor License Renewal for RCG Rifle, LLC dba Rib City Grill
 - 5.d. Consider Report of Changes - Change of Manager for Kum & Go, LC dba Kum & Go #922
 - 5.e. Consider Adopting the 2024 Budget Preparation Calendar
 - 5.f. Consider Approval of Ordinance No. 12, Series of 2023 - Amending Section 6-5-170 of the Rifle Municipal Code to Update the Duration of a Responsible Service of Alcohol Certificate - 2nd Reading
6. **Action, if any, on Workshop Items**
7. **Presentation**
 - 7.a. Receive Update from Habitat for Humanity on the Home Manufacturing Project

8. Public Hearing

- 8.a.** Consider Approval of Ordinance No. 14, Series of 2023 - Xcel Franchise Agreement - 1st Reading

9. Regular Agenda

- 9.a.** Consider Approval of Martin Construction for 2023 Street and Asphalt Improvements
- 9.b.** Consider Approval of Ordinance No. 13, Series of 2023 - Ground Lease with Habitat for Humanity - 1st Reading

10. Administrative Reports

- 10.a.** Report to City Manager

11. Comments from Mayor and Council

12. Adjournment



Agenda Item #a.

Agenda Item Name:

Receive 2023 Financial Update (1/1/2023 - 6/30/2023)

Presenter:

Scott Rust, Finance Director

Item Description:

A financial update will be given based on data through 6/30/2023. Specifically, a report on sales tax collections will be provided along with an analysis of the year-to-date 2023 budget compared with actual activity for both revenue and expenditures.

Recommended Action:

N/A

Fiscal Impact:

Overall, the financial position of the City of Rifle is strong. 2023 sales tax revenues appear strong and are currently pacing 10.4% over prior year collections year-to-date. However, staff remain vigilant and will continue to closely monitor revenue streams for unexpected volatility. Even though prices continue to rise and budgeted projects often exceed estimates, staff continue to provide high quality service to the citizens of Rifle. At this point, there are no departmental spending patterns that are a cause for concern.

Operational Impact:

N/A

Prior Board Motions:

N/A

Background Information:

In order to keep the Council informed of the City of Rifle's financial performance, quarterly reports are given. This financial report covers the time frame between 1/1/2023 through 6/30/2023.

Executive Summary:

N/A

Notification Requirements:

N/A

Prepared By:

Scott Rust, Finance Director

Attachments:

1. City of Rifle Unaudited Financial Report 6.30.23
2. City of Rifle Sales Tax Report 6.30.23

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
GENERAL REVENUES	5,190,066.80	5,190,066.80	13,459,195.98	8,269,129.18	38.6
	5,190,066.80	5,190,066.80	13,459,195.98	8,269,129.18	38.6
<u>EXPENDITURES</u>					
MAYOR/COUNCIL	54,212.15	54,212.15	142,073.52	87,861.37	38.2
MUNICIPAL COURT	112,475.59	112,475.59	306,393.13	193,917.54	36.7
CITY MANAGER	400,087.09	400,087.09	870,574.62	470,487.53	46.0
FINANCE	316,311.88	316,311.88	728,633.55	412,321.67	43.4
ATTORNEY	126,171.99	126,171.99	322,000.00	195,828.01	39.2
COMMUNITY DEVELOPMENT	223,914.47	223,914.47	546,575.66	322,661.19	41.0
GROUPS AND FACILITY MAINT.	225,745.34	225,745.34	520,079.81	294,334.47	43.4
COMMUNITY INVOLVEMT MULTIMEDI	131,784.02	131,784.02	270,309.53	138,525.51	48.8
POLICE	1,623,248.94	1,623,248.94	4,490,031.02	2,866,782.08	36.2
BUILDING INSPECTIONS	55,356.70	55,356.70	119,414.21	64,057.51	46.4
PUBLIC WORKS	839,005.56	839,005.56	2,267,829.03	1,428,823.47	37.0
SENIOR CENTER	206,726.33	206,726.33	557,448.68	350,722.35	37.1
NON DEPARTMENTAL	480,961.20	480,961.20	667,486.00	186,524.80	72.1
OPERATING TRANSFERS OUT	542,400.25	542,400.25	2,169,601.00	1,627,200.75	25.0
	5,338,401.51	5,338,401.51	13,978,449.76	8,640,048.25	38.2
	(148,334.71)	(148,334.71)	(519,253.78)	(370,919.07)	(28.6)

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

STREET IMPROVEMENT FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
GENERAL REVENUES	1,488,876.94	1,488,876.94	9,067,507.51	7,578,630.57	16.4
CAPITAL REVENUES	110,243.25	110,243.25	20,000.00	(90,243.25)	551.2
	<u>1,599,120.19</u>	<u>1,599,120.19</u>	<u>9,087,507.51</u>	<u>7,488,387.32</u>	<u>17.6</u>
<u>EXPENDITURES</u>					
PAVED STREETS	116,133.99	116,133.99	1,516,539.89	1,400,405.90	7.7
CONSTRUCTION PROJECT	257,866.39	257,866.39	7,932,472.48	7,674,606.09	3.3
	<u>374,000.38</u>	<u>374,000.38</u>	<u>9,449,012.37</u>	<u>9,075,011.99</u>	<u>4.0</u>
	<u>1,225,119.81</u>	<u>1,225,119.81</u>	<u>(361,504.86)</u>	<u>(1,586,624.67)</u>	<u>338.9</u>

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

CONSERVATION TRUST FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
CONSERVATION TRUST REVENUE	100,558.68	100,558.68	93,026.07	(7,532.61)	108.1
	100,558.68	100,558.68	93,026.07	(7,532.61)	108.1
<u>EXPENDITURES</u>					
CONSERVATION TRUST	13,790.00	13,790.00	40,000.00	26,210.00	34.5
	13,790.00	13,790.00	40,000.00	26,210.00	34.5
	86,768.68	86,768.68	53,026.07	(33,742.61)	163.6

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

VISITOR IMPROVEMENT FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
VISITOR IMPROVEMENT	129,504.38	129,504.38	411,116.37	281,611.99	31.5
	129,504.38	129,504.38	411,116.37	281,611.99	31.5
<u>EXPENDITURES</u>					
VISITOR IMPROVEMENT	124,922.92	124,922.92	395,509.70	270,586.78	31.6
	124,922.92	124,922.92	395,509.70	270,586.78	31.6
	4,581.46	4,581.46	15,606.67	11,025.21	29.4

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

DOWNTOWN DEVELOPMENT DISTRICT

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
DOWNTOWN DEVELOPMENT	45,179.37	45,179.37	81,995.88	36,816.51	55.1
	45,179.37	45,179.37	81,995.88	36,816.51	55.1
<u>EXPENDITURES</u>					
DOWNTOWN DEVELOPMENT	17,787.46	17,787.46	134,733.20	116,945.74	13.2
	17,787.46	17,787.46	134,733.20	116,945.74	13.2
	27,391.91	27,391.91	(52,737.32)	(80,129.23)	51.9

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

CAPITAL IMPROVEMENT FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
CAPITAL REVENUE	26,416.52	26,416.52	36,312.83	9,896.31	72.8
	26,416.52	26,416.52	36,312.83	9,896.31	72.8
<u>EXPENDITURES</u>					
CAPITAL IMPROVEMENTS	288,368.44	288,368.44	1,000,000.00	711,631.56	28.8
	288,368.44	288,368.44	1,000,000.00	711,631.56	28.8
	(261,951.92)	(261,951.92)	(963,687.17)	(701,735.25)	(27.2)

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

TOURISM & INDUSTRY

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
TOURISM & INDUSTRY	230,779.40	230,779.40	417,748.85	186,969.45	55.2
	230,779.40	230,779.40	417,748.85	186,969.45	55.2
<u>EXPENDITURES</u>					
TOURISM & INDUSTRY	305,596.87	305,596.87	707,709.99	402,113.12	43.2
	305,596.87	305,596.87	707,709.99	402,113.12	43.2
	(74,817.47)	(74,817.47)	(289,961.14)	(215,143.67)	(25.8)

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

URBAN RENEWAL AUTHORITY FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
URBAN RENEWAL	116,241.62	116,241.62	150,201.74	33,960.12	77.4
	116,241.62	116,241.62	150,201.74	33,960.12	77.4
<u>EXPENDITURES</u>					
URBAN RENEWAL	16,317.14	16,317.14	40,500.00	24,182.86	40.3
	16,317.14	16,317.14	40,500.00	24,182.86	40.3
	99,924.48	99,924.48	109,701.74	9,777.26	91.1

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

PARKS & RECREATION

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
PARKS AND REC REVENUE	1,643,112.46	1,643,112.46	3,690,083.76	2,046,971.30	44.5
	1,643,112.46	1,643,112.46	3,690,083.76	2,046,971.30	44.5
<u>EXPENDITURES</u>					
RECREATION	295,062.15	295,062.15	841,743.23	546,681.08	35.1
POOL	173,270.50	173,270.50	615,022.76	441,752.26	28.2
PARK MAINTENANCE	643,633.15	643,633.15	1,777,473.83	1,133,840.68	36.2
PARKS CAPITAL	522,896.84	522,896.84	704,116.00	181,219.16	74.3
NON-DEPARTMENTAL	65,589.13	65,589.13	83,069.30	17,480.17	79.0
OPERATING TRANSFER OUT	75,000.00	75,000.00	300,000.00	225,000.00	25.0
	1,775,451.77	1,775,451.77	4,321,425.12	2,545,973.35	41.1
	(132,339.31)	(132,339.31)	(631,341.36)	(499,002.05)	(21.0)

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

WATER FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
WATER REVENUE	1,118,844.13	1,118,844.13	3,880,584.66	2,761,740.53	28.8
WATER RIGHTS REVENUE	15,330.38	15,330.38	225,000.00	209,669.62	6.8
CAPITAL REVENUE	226,105.16	226,105.16	150,000.00	(76,105.16)	150.7
WTP SALES & USE TAX REVENUES	1,119,233.22	1,119,233.22	2,847,456.49	1,728,223.27	39.3
	<u>2,479,512.89</u>	<u>2,479,512.89</u>	<u>7,103,041.15</u>	<u>4,623,528.26</u>	<u>34.9</u>
<u>EXPENDITURES</u>					
WATER O&H	1,030,471.57	1,030,471.57	2,585,141.67	1,554,670.10	39.9
WATER RIGHTS	11,347.46	11,347.46	69,000.00	57,652.54	16.5
WATER SYSTEM IMPROVEMENTS	616,926.05	616,926.05	2,875,000.00	2,258,073.95	21.5
WATER TREATMENT PLANT DEBT	721,919.28	721,919.28	1,443,838.00	721,918.72	50.0
WATER TANK DEBT	56,611.27	56,611.27	338,610.00	281,998.73	16.7
	<u>2,437,275.63</u>	<u>2,437,275.63</u>	<u>7,311,589.67</u>	<u>4,874,314.04</u>	<u>33.3</u>
	<u>42,237.26</u>	<u>42,237.26</u>	<u>(208,548.52)</u>	<u>(250,785.78)</u>	<u>20.3</u>

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

WASTEWATER FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
WASTE WATER REVENUE	1,536,726.63	1,536,726.63	4,434,726.68	2,898,000.05	34.7
WASTEWATER SYS IMPROVE	179,770.43	179,770.43	150,000.00	(29,770.43)	119.9
	<u>1,716,497.06</u>	<u>1,716,497.06</u>	<u>4,584,726.68</u>	<u>2,868,229.62</u>	<u>37.4</u>
<u>EXPENDITURES</u>					
SEWER O&H	<u>1,286,767.75</u>	<u>1,286,767.75</u>	<u>3,681,788.55</u>	<u>2,395,020.80</u>	<u>35.0</u>
	<u>1,286,767.75</u>	<u>1,286,767.75</u>	<u>3,681,788.55</u>	<u>2,395,020.80</u>	<u>35.0</u>
	<u><u>429,729.31</u></u>	<u><u>429,729.31</u></u>	<u><u>902,938.13</u></u>	<u><u>473,208.82</u></u>	<u><u>47.6</u></u>

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

SANITATION FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
USER FEES	367,620.11	367,620.11	818,176.80	450,556.69	44.9
	367,620.11	367,620.11	818,176.80	450,556.69	44.9
<u>EXPENDITURES</u>					
SANITATION OPERATIONS	352,838.38	352,838.38	864,234.80	511,396.42	40.8
SANITATION TRANSFERS	500.00	500.00	2,000.00	1,500.00	25.0
	353,338.38	353,338.38	866,234.80	512,896.42	40.8
	14,281.73	14,281.73	(48,058.00)	(62,339.73)	29.7

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

CEMETERY PERPETUAL CARE

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
PERPETUAL CARE	12,507.28	12,507.28	11,681.15	(826.13)	107.1
	12,507.28	12,507.28	11,681.15	(826.13)	107.1
<u>EXPENDITURES</u>					
DEPARTMENT 4422	.00	.00	5,000.00	5,000.00	.0
	.00	.00	5,000.00	5,000.00	.0
	12,507.28	12,507.28	6,681.15	(5,826.13)	187.2

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

FLEET MAINTENANCE

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
INTERDEPT REVENUE	148,617.04	148,617.04	600,181.41	451,564.37	24.8
	148,617.04	148,617.04	600,181.41	451,564.37	24.8
<u>EXPENDITURES</u>					
FLEET MAINTENANCE	197,790.14	197,790.14	466,323.64	268,533.50	42.4
CAPITAL	.00	.00	150,000.00	150,000.00	.0
	197,790.14	197,790.14	616,323.64	418,533.50	32.1
	(49,173.10)	(49,173.10)	(16,142.23)	33,030.87	(304.6)

CITY OF RIFLE
FUND SUMMARY
FOR THE 6 MONTHS ENDING JUNE 30, 2023

INFORMATION TECH MAINTENANCE

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	VARIANCE	PCNT
<u>REVENUE</u>					
INTERDEPT REVENUES	297,577.44	297,577.44	1,198,137.68	900,560.24	24.8
	297,577.44	297,577.44	1,198,137.68	900,560.24	24.8
<u>EXPENDITURES</u>					
I.T. MAINTENANCE	458,281.46	458,281.46	953,575.34	495,293.88	48.1
I.T. CAPITAL	15,419.94	15,419.94	189,500.00	174,080.06	8.1
	473,701.40	473,701.40	1,143,075.34	669,373.94	41.4
	(176,123.96)	(176,123.96)	55,062.34	231,186.30	(319.9)

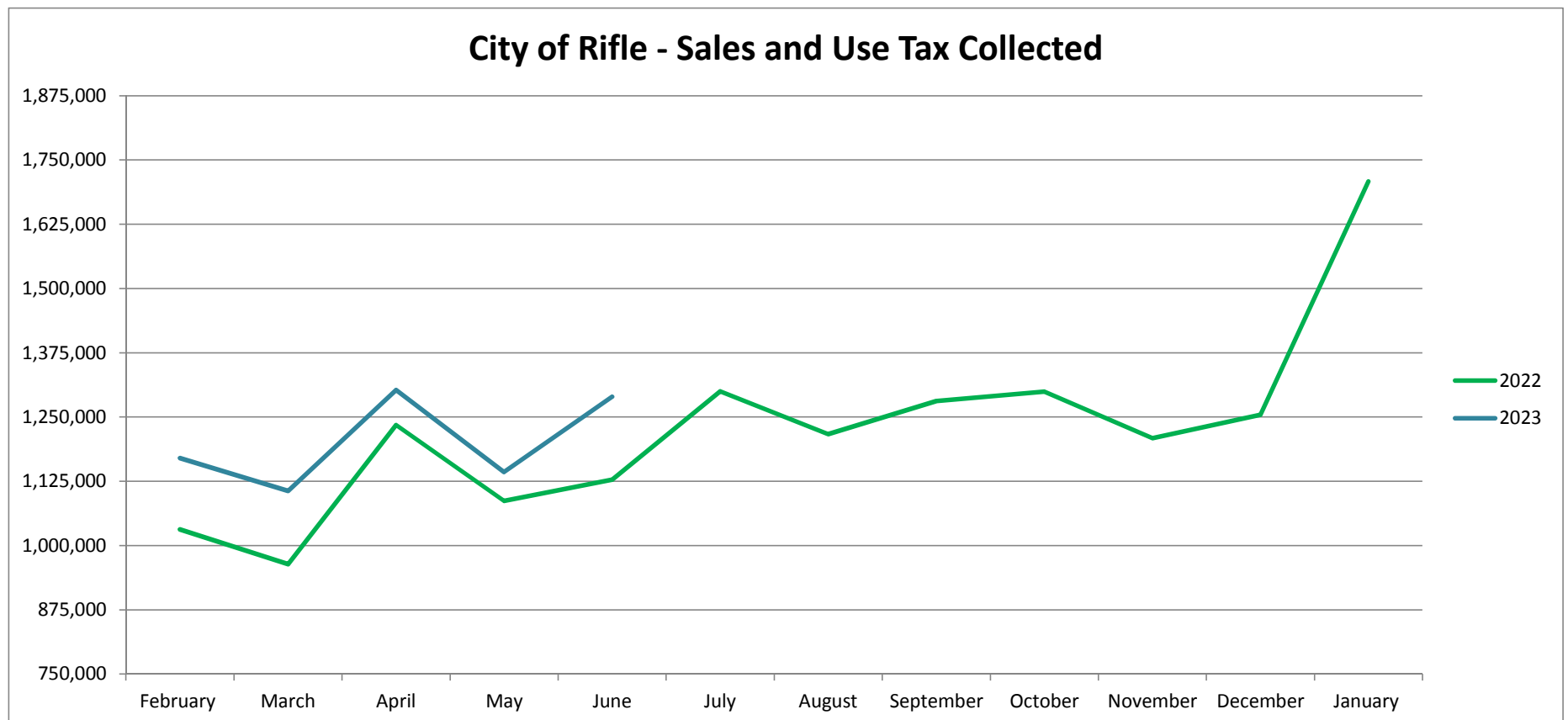
City of Rifle Sales Tax - 2023 Prior Year Comparison																	
		February (for January Sales)				March (for February Sales)				April (for March Sales)				May (for April Sales)			
City Business		Total Amount 2023	Total Amount 2022	\$ Diff	% Diff	Total Amount 2023	Total Amount 2022	\$ Diff	% Diff	Total Amount 2023	Total Amount 2022	\$ Diff	% Diff	Total Amount 2023	Total Amount 2022	\$ Diff	% Diff
BARS & RESTAURANTS		\$ 99,135.66	\$ 92,808.72	\$ 6,326.94	6.82%	\$ 95,653.51	\$ 84,730.46	\$ 10,923.05	12.89%	\$ 111,720.01	\$ 108,542.22	\$ 3,177.79	2.93%	\$ 118,564.37	\$ 101,860.30	\$ 16,704.07	16.40%
LEASING/MISC		41,388.67	36,591.86	4,796.81	13.11%	31,478.62	25,572.84	5,905.78	23.09%	41,191.34	39,673.76	1,517.58	3.83%	20,844.48	25,819.12	(4,974.64)	-19.27%
OIL & GAS		20,323.90	15,433.87	4,890.03	31.68%	23,693.46	11,717.95	11,975.51	102.20%	31,613.69	18,656.13	12,957.56	69.45%	17,456.44	12,319.53	5,136.91	41.70%
LODGING		35,524.98	26,711.41	8,813.57	33.00%	38,728.95	28,494.26	10,234.69	35.92%	43,212.77	38,900.40	4,312.37	11.09%	38,919.12	29,468.34	9,450.78	32.07%
LIQUOR STORES		21,895.89	20,729.02	1,166.87	5.63%	21,662.08	21,094.59	567.49	2.69%	23,366.97	23,190.00	176.97	0.76%	23,782.01	24,746.68	(964.67)	-3.90%
HVAC		1,327.35	1,091.82	235.53	21.57%	2,281.03	477.13	1,803.90	378.07%	827.31	706.40	120.91	17.12%	656.54	637.67	18.87	2.96%
HARDWARE		15,525.99	20,701.97	(5,175.98)	-25.00%	14,293.81	27,930.90	(13,637.09)	-48.82%	35,370.65	28,488.83	6,881.82	24.16%	17,226.35	22,547.25	(5,320.90)	-23.60%
GENERAL RETAIL		428,272.59	420,311.09	7,961.50	1.89%	385,237.84	365,993.22	19,244.62	5.26%	546,837.78	488,186.75	58,651.03	12.01%	459,456.22	452,190.48	7,265.74	1.61%
FOOD		165,010.94	143,055.81	21,955.13	15.35%	176,224.60	150,074.86	26,149.74	17.42%	180,266.54	156,296.74	23,969.80	15.34%	187,718.47	161,114.28	26,604.19	16.51%
EXCISE		9,452.69	6,891.49	2,561.20	37.16%	9,058.11	19,294.21	(10,236.10)	-53.05%	8,811.20	43,704.36	(34,893.16)	-79.84%	5,637.67	17,873.86	(12,236.19)	-68.46%
CONTRACTOR		1,088.80	587.00	501.80	85.49%	1,758.53	1,375.00	383.53	27.89%	1,694.03	3,183.44	(1,489.41)	-46.79%	1,733.77	1,650.00	83.77	5.08%
CAR PARTS & SALES		50,298.71	43,908.45	6,390.26	14.55%	51,435.29	46,871.83	4,563.46	9.74%	53,338.06	63,543.57	(10,205.51)	-16.06%	53,300.03	51,260.93	2,039.10	3.98%
UTILITIES		82,678.88	76,449.08	6,229.80	8.15%	56,133.75	53,797.80	2,335.95	4.34%	75,484.03	76,060.44	(576.41)	-0.76%	53,141.65	51,342.56	1,798.09	3.50%
MARIJUANA RETAIL		12,543.47	12,948.24	(404.77)	-3.13%	12,237.29	12,252.81	(15.52)	-0.13%	15,300.39	14,034.48	1,265.91	9.02%	18,799.44	13,742.07	5,057.37	36.80%
Total MuniRev		\$ 984,468.52	\$ 918,219.83	\$ 66,248.69	7.21%	\$ 919,876.87	\$ 849,677.86	\$ 70,199.01	8.26%	\$ 1,169,034.77	\$ 1,103,167.52	\$ 65,867.25	5.97%	\$ 1,017,236.56	\$ 966,574.07	\$ 50,662.49	5.24%
BUILDING USE TAX (Month Collected)		99,263.97	8,484.15	90,779.82	1069.99%	75,093.74	40,107.54	34,986.20	87.23%	21,606.17	10,421.81	11,184.36	107.32%	9,389.75	7,983.00	1,406.75	17.62%
MOTOR VEHICLE USE TAX (Month Collected)		86,255.66	104,916.47	(18,660.81)	-17.79%	111,247.04	73,997.25	37,249.79	50.34%	112,034.12	121,093.04	(9,058.92)	-7.48%	116,222.51	112,071.86	4,150.65	3.70%
Grand Total		\$ 1,169,988.15	\$ 1,031,620.45	\$ 138,367.70	13.41%	\$ 1,106,217.65	\$ 963,782.65	\$ 142,435.00	14.78%	\$ 1,302,675.06	\$ 1,234,682.37	\$ 67,992.69	5.51%	\$ 1,142,848.82	\$ 1,086,628.93	\$ 56,219.89	5.17%

		June (for May Sales)															
City Business		Total Amount 2023	Total Amount 2022	\$ Diff	% Diff												
BARS & RESTAURANTS		\$ 117,107.95	\$ 112,933.11	\$ 4,174.84	3.70%												
LEASING/MISC		25,055.76	21,166.41	3,889.35	18.38%												
OIL & GAS		23,238.03	25,752.53	(2,514.50)	-9.76%												
LODGING		61,810.75	48,162.63	13,648.12	28.34%												
LIQUOR STORES		27,697.85	26,479.81	1,218.04	4.60%												
HVAC		721.73	561.69	160.04	28.49%												
HARDWARE		25,896.70	21,321.15	4,575.55	21.46%												
GENERAL RETAIL		480,393.22	471,121.13	9,272.09	1.97%												
FOOD		201,062.58	168,978.13	32,084.45	18.99%												
EXCISE		2,309.27	9,722.67	(7,413.40)	-76.25%												
CONTRACTOR		622.20	792.11	(169.91)	-21.45%												
CAR PARTS & SALES		52,978.12	52,445.48	532.64	1.02%												
UTILITIES		47,483.51	42,625.50	4,858.01	11.40%												
MARIJUANA RETAIL		19,871.93	13,987.02	5,884.91	42.07%												
Total MuniRev		\$ 1,086,249.60	\$ 1,016,049.37	\$ 70,200.23	6.91%												
BUILDING USE TAX (Month Collected)		88,372.18	12,846.46	75,525.72	587.91%												
MOTOR VEHICLE USE TAX (Month Collected)		115,000.00	99,208.16	15,791.84	15.92%												
Grand Total		\$ 1,289,621.78	\$ 1,128,103.99	\$ 161,517.79	14.32%												

		Year-to-Date							
City Business		YTD 2023	YTD 2022	\$ Diff	% Diff				
BARS & RESTAURANTS		\$ 542,181.50	\$ 500,874.81	\$ 41,306.69	8.25%				
LEASING/MISC		\$ 159,958.87	\$ 148,823.99	\$ 11,134.88	7.48%				
OIL & GAS		\$ 116,325.52	\$ 83,880.01	\$ 32,445.51	38.68%				
LODGING		\$ 218,196.57	\$ 171,737.04	\$ 46,459.53	27.05%				
LIQUOR STORES		\$ 118,404.80	\$ 116,240.10	\$ 2,164.70	1.86%				
HVAC		\$ 5,813.96	\$ 3,474.71	\$ 2,339.25	67.32%				
HARDWARE		\$ 108,313.50	\$ 120,990.10	\$ (12,676.60)	-10.48%				
GENERAL RETAIL		\$ 2,300,197.65	\$ 2,197,802.67	\$ 102,394.98	4.66%				
FOOD		\$ 910,283.13	\$ 779,519.82	\$ 130,763.31	16.77%				
EXCISE		\$ 35,268.94	\$ 97,486.59	\$ (62,217.65)	-63.82%				
CONTRACTOR		\$ 6,897.33	\$ 7,587.55	\$ (690.22)	-9.10%				
CAR PARTS & SALES		\$ 261,350.21	\$ 258,030.26	\$ 3,319.95	1.29%				
UTILITIES		\$ 314,921.82	\$ 300,276.38	\$ 14,645.44	4.88%				
MARIJUANA RETAIL		\$ 78,752.52	\$ 66,964.62	\$ 11,787.90	17.60%				
Total MuniRev		\$ 5,176,866.32	\$ 4,853,688.65	\$ 323,177.67	6.66%				
BUILDING USE TAX (Month Collected)		\$ 293,725.81	\$ 79,842.96	\$ 213,882.85	267.88%				
MOTOR VEHICLE USE TAX (Month Collected)		\$ 540,759.33	\$ 511,286.78	\$ 29,472.55	5.76%				
Grand Total		\$ 6,011,351.46	\$ 5,444,818.39	\$ 566,533.07	10.40%				

Month	2023	2022	% Change
February	\$ 1,169,988.15	\$ 1,031,620.45	13.41%
March	1,106,217.65	963,782.65	14.78%
April	1,302,675.06	1,234,682.37	5.51%
May	1,142,848.82	1,086,628.93	5.17%
June	1,289,621.78	1,128,103.99	14.32%
July		1,299,788.74	-100.00%
August		1,216,692.79	-100.00%
September		1,281,197.75	-100.00%
October		1,299,652.58	-100.00%
November		1,208,790.91	-100.00%
December		1,254,580.74	-100.00%
January		1,708,147.69	-100.00%
TOTAL	\$ 6,011,351.46	\$ 14,713,669.59	-59.14%

10.40% Year-to-date





Agenda Item #5.a.

Agenda Item Name:

Consider Minutes of the June 7, 2023, Regular Meeting

Presenter:

Misty Williams, City Clerk

Item Description:

Consider Minutes of the June 7, 2023, Regular Meeting

Recommended Action:

Move to approve the minutes of the June 7, 2023, City Council Regular Meeting

Fiscal Impact:

N/A

Operational Impact:

N/A

Prior Board Motions:

N/A

Background Information:

N/A

Executive Summary:

Minutes of the June 7, 2023, Regular Meeting

Notification Requirements:

N/A

Prepared By:

Alexis Ramirez, Deputy City Clerk

Attachments:

1. 06.07.2023 DRAFT Minutes



RIFLE CITY COUNCIL

REGULAR MEETING

June 7, 2023

7:00 p.m.

202 Railroad Avenue, Rifle, CO

CALL TO ORDER & ROLL CALL

A regular meeting of the Rifle City Council was called to order at 7:00 p.m. by Mayor Ed Green.

Present at Roll Call:

Councilor Joe Carpenter, Councilor Alicia Gresley, Mayor Ed Green, Councilor Brian Condie, Councilor Chris Bornholdt, Councilor Clint Hostettler, and Councilor Sean Strode.

Others Present:

City Manager Tommy Klein, Deputy City Clerk Alexis Ramirez, City Attorney Jim Neu, Rifle Community Television (RCTV) Salvador Tovar-Guzman, Lieutenant Mike Kuper, Network and Systems Administrator Jake Statler, Recreation Program Manager Kendrick Robinson and Civil Engineer Craig Spaulding.

PUBLIC COMMENT

No public comment was heard.

CONSENT AGENDA – CONSIDER APPROVING THE FOLLOWING ITEMS:

- A. Consider Minutes of the May 17, 2023, Regular Meeting
- B. Consider Approval of the 2023-2025 City Strategic Plan
- C. Consider Liquor License Renewal for Rifle Tequila's dba Tequila's.
- D. Consider Modification of Premises for Capitol Deli, Inc. dba Capitol Deli
- E. Consider Liquor License Renewal for Western Slope Chicken, LLC dba Wingchesters
- F. Consider Resolution No. 14, Series of 2023 - Terminating the Declaration of Emergency for COVID
- G. Consider Resolution No. 16 Series of 2023 - Resolution of Substantial Compliance for Ecodwellings Fritzlan Annexation

Councilor Sean Strode moved to approve Consent Agenda Item A, B, C, D, E, F, and G; seconded by Councilor Alicia Gresley.

Roll Call: Yes - Sean Strode, Joe Carpenter, Chris Bornholdt, Brian Condie, Clint Hostettler, Alicia Gresley and Ed Green.

No – None.

REGULAR AGENDA

Consider Declaring IT Equipment Surplus

City Manager Tommy Klein presented a request to consider declaring IT Equipment Surplus. The IT department has accumulated obsolete and damaged computer equipment over the years that needs to be sold or disposed of. IT would like to use the services of Lifespan, a company that is currently used by Grand River Hospital. They are confident that Lifespan will ensure that any confidential information stored on servers or hard drives will remain secure until destroyed. Lifespan is a certified company that will provide a report on all equipment based on Model, Serial No. and Information on data destroyed (if any). The cost of disposal of equipment by Lifespan is typically \$9.00 per item if data needs to be removed from the device. For other electronic equipment that has no value, the company charges \$0.30 per pound. Proceeds from items that are sold by Lifespan will be applied towards our cost of disposal and if proceeds exceed costs, the City will be compensated for the difference. (The City would receive 70% of the value of any items sold.) It is our hope to break even in the transaction. (Costs of disposing properly + erasing data + shipping = recycling + used retail value.) Staff requested approval to declare the items listed as surplus equipment and to work with Lifespan to sell, destroy, refurbish for sale or recycle materials.

Councilor Clint Hostettler moved to approve the declaration of IT equipment as surplus and approve disposal using Lifespan; seconded by Councilor Chris Bornholt.

Roll Call: Yes - Brian Condie, Joe Carpenter, Alicia Gresley, Ed Green, Chris Bornholdt, Clint Hostettler, and Sean Strode.

No – None.

Consider Appointment to the Parks and Recreation Advisory Board

Recreation Program Manager Kendrick Robinson presented a request to consider the appointment of Josi Proulx to the Parks and Recreation Advisory Board. The Parks and Recreation Advisory Board (PRAB) consists of 8 Board members, seven regular members, and one alternate member. Staff solicited and received an application for the vacant seat. Staff completed the interview process and recommends Josi Proulx for the alternate board seat.

Recreation Program Manager Kendrick Robinson answered questions for Council.

Councilor Clint Hostettler moved to approve the appointment of Josi Proulx to fill the vacant alternate position on the Parks & Recreation Advisory Board; seconded by Councilor Sean Strode.

Roll Call: Yes - Alicia Gresley, Brian Condie, Sean Strode, Chris Bornholdt, Clint Hostettler, Ed Green and Joe Carpenter.

No – None.

Consider Resolution No. 15, Series of 2023 – Adopting an Electronic Participation Policy

City Attorney Jim Neu presented a request to consider Resolution No. 15, Series of 2023 – Adopting an Electronic Participation Policy. This Electronic Participation Policy would allow Council members that may not be able to attend a scheduled meeting in person to participate via telephone, electronically, or other means of communication. Council members shall advise the City of their intent to participate via Electronic Participation at the earliest possible time and not less than twenty-four (24) hours prior to the requested participation. The City shall provide all members of the City Council full and equal access to City Council meetings pursuant to this policy.

Councilor Brian Condie moved to approve Resolution No. 15, Series of 2023 – Adopting an Electronic Participation Policy; seconded by Councilor Alicia Gresley.

Roll Call: Yes - Ed Green, Sean Strode, Alicia Gresley, Clint Hostettler, Brian Condie and Joe Carpenter.

No – Chris Bornholdt.

Consider Approval of Annual cost for Garfield County Emergency Communications**Authority Invoice**

Lieutenant Mike Kuper presented a request to consider approval of annual cost for Garfield County Emergency Communications Authority Invoice. This annual expense covers expenses for our communications, dispatch and mobile units for police officers. This expense is based on \$1.2054 per incident for a total of 14,761 incidents for Rifle Police Department totaling \$17,792.91 and 20 Rifle PD mobile units at \$473.308 per year totaling \$9,466.16. The invoice is for the Rifle Police Department's share of New World/Tyler User Annual Law Records and Law Mobile. Staff recommends approval of the GARCO 2023 invoice for the total amount of \$27,259.07.

Councilor Clint Hostettler moved to approve the annual Garfield County Emergency Communications Authority Invoice in the amount of \$27,259.07; seconded by Councilor Sean Strode.

Roll Call: Yes - Alicia Gresley, Sean Strode, Chris Bornholdt, Clint Hostettler, Ed Green, Joe Carpenter and Brian Condie.

Consider Approval of Contract with Martinez Western Constructors for Construction Services on the 2023 Waterline Restraint Rehabilitation

Civil Engineer Craig Spaulding presented a request for approval of Contract with Martinez Western Constructors for Construction Services on the 2023 Waterline Restraint Rehabilitation. The waterline that runs beneath the bridge that runs across the river bridge needs rehabilitation before the line can be turned back on. At the beginning of the year, a leak was discovered in the waterline. Once this was discovered, the waterline was shut down and switched over to the old waterline. The waterline project includes concrete restraints to hold the water line back into place and have them anchored to the restraints to avoid future leaks. Bids were requested and no bids were received at the mandatory pre-bid meeting. One bid was received from Martinez Western Constructors in the amount of \$147,807.20. Staff recommends approval of contract as this project is critical to the City of Rifle's infrastructure.

Civil Engineer Craig Spaulding answered questions for Council.

Councilor Sean Strode moved to approve the contract with Martinez Western Constructors for Rifle City Council Meeting June 7, 2023

Construction Services on the 2023 Waterline Restraint Rehabilitation in the amount of \$147,807.20; seconded by Councilor Clint Hostettler.

Roll Call: Yes - Joe Carpenter, Alicia Gresley, Ed Green, Brian Condie, Chris Bornholdt, Clint Hostettler, and Sean Strobe.

No – None.

Consider Approval of Contract with Martinez Western Constructors for Construction Services on the Railroad and 5th Street Intersection Improvements

Civil Engineer Craig Spaulding presented a request to consider approval of Contract with Martinez Western Constructors for Construction Services on the Railroad and 5th Street Intersection Improvements. This work was planned to be part of the downtown project in 2019 but was removed to reduce the overall cost. The work was then anticipated to be part of the 2024 Railroad Avenue project but with the reception of the Colorado Department of Transportation Main Street Grant of \$250,000.00, the work is now scheduled for 2023. This project includes sidewalks, curb ramps and traffic signals. This vital work will ensure ADA compliance to Rifle's downtown and reliable traffic signals. Public bids were requested for the project, two contractors expressed interest and attended the mandatory pre-bid meeting but only one bid was received. The bid received was 89% higher than the engineer's estimate but after extensive meetings with the contractor to reduce costs on certain areas, the bid was reduced by (13%) \$132,549.50. After the negotiation process, the final bid amount came to \$891,608.01. Staff stated there is \$500,000.00 available through the CDOT Mainstreet Grant and Street Improvement Fund, \$200,000.00 from the Urban Renewable Area Fund is proposed to supplement the deficit as well as an additional \$191,608.01 from the Street Improvement Fund to fund this project. Staff recommends approval of contract with Martinez Western Constructors for Construction services on the Railroad and 5th Street Intersection Improvements due to the necessity of the project, transparency of the contractor and reception of grant.

Civil Engineer Craig Spaulding answered questions for Council.

Councilor Alicia Gresley moved to approve the contract with Martinez Western Constructors for Construction Services on the Railroad and 5th Street Intersection Improvements for \$891,608.01; seconded by Councilor Brian Condie.

Roll Call: Yes - Sean Strobe, Brian Condie, Joe Carpenter, Chris Bornholdt, Alicia Gresley and Ed Green.

No – Clint Hostettler.

Consider Resolution No. 17, Series of 2023 – Resolution to allow the manager to sign and approve expenditures required for the CDOT Grant for the Gateway Improvement Project

City Manager Tommy Klein presented a request to consider Resolution No. 17, Series of 2023 – Resolution to allow the manager to sign and approve expenditures required for the Colorado Department of Transportation Grant for the Gateway Improvement Project. City of Rifle received a \$1.8 million CDOT grant for the intersection improvements at Highway 6 and Whiteriver. This project is still in the preliminary stages of funding and planning. This resolution will allow for the City Manager to sign and approve expenditures required for the Gateway Improvement project.

City Manager Tommy Klein and Civil Engineer Craig Spaulding answered questions for Council.

Councilor Clint Hostettler moved to approve Resolution No. 17, Series of 2023 to permit the city manager to sign grant documents and allocate funds for the Highway 6 and Whiteriver Intersection Improvement Project; seconded by Councilor Sean Strobe.
Roll Call: Yes - Ed Green, Sean Strobe, Alicia Gresley, Brian Condie, Clint Hostettler, Chris Bornholdt, and Joe Carpenter.
No – None.

Report to City Manager

Reports were heard from City Manager Tommy Klein.

Comments from Mayor and Council

Comments were heard from Councilor Alicia Gresley, Councilor Sean Strobe and Councilor Chris Bornholdt.

Adjournment

Meeting adjourned at 8:11 p.m.

Alexis Ramirez
Deputy City Clerk

Ed Green
Mayor



Agenda Item #5.b.

Agenda Item Name:

Consider Minutes of the June 21, 2023, Regular Meeting

Presenter:

Misty Williams, City Clerk

Item Description:

Consider Minutes of the June 21, 2023, Regular Meeting

Recommended Action:

Move to approve the minutes of the June 21, 2023, City Council Regular Meeting

Fiscal Impact:

N/A

Operational Impact:

N/A

Prior Board Motions:

N/A

Background Information:

N/A

Executive Summary:

Minutes of the June 21, 2023, Regular Meeting

Notification Requirements:

N/A

Prepared By:

Alexis Ramirez, Deputy City Clerk

Attachments:

1. 06.21.2023 DRAFT Minutes



RIFLE CITY COUNCIL

REGULAR MEETING

June 21, 2023

7:00 p.m.

202 Railroad Avenue, Rifle, CO

CALL TO ORDER & ROLL CALL

A regular meeting of the Rifle City Council was called to order at 7:00 p.m. by Mayor Ed Green.

Present at Roll Call:

Councilor Joe Carpenter, Councilor Alicia Gresley, Mayor Ed Green, Councilor Chris Bornholdt, Councilor Clint Hostettler and Councilor Sean Strode.

Councilor Sean Strode moved to excuse Councilor Brian Condie from Council Meeting; seconded by Councilor Alicia Gresley.

Roll Call: Yes - Ed Green, Clint Hostettler, Alicia Gresley, Joe Carpenter, Chris Bornholdt and Sean Strode.

No – None.

Others Present:

City Manager Tommy Klein, City Clerk Misty Williams, City Attorney Jim Neu, Rifle Community Television (RCTV) Salvador Tovar-Guzman, Chief of Police Debra Funston, Planning Director Patrick Waller, Senior Center Director Tami Sours, Paul Kaufmann, Brandi Kaufmann, Becky Carey, Josh Lieberman, and Tim Singlestar.

PUBLIC COMMENT

Public comment was heard from Tim Singlestar and Paul Kaufmann.

CONSENT AGENDA – CONSIDER THE FOLLOWING ITEMS:

- A. Consider Resolution No. 18, Series of 2023 – Resolution of Substantial Compliance for Highway 6 and Swallow Lane Annexation
- B. Consider Liquor License Renewal for Rocky Mountain Liquors, Inc. dba Rocky Mountain Liquors

Councilor Sean Strode moved to approve Consent Agenda Item A & B; seconded by Councilor Clint Hostettler.

Roll Call: Yes - Alicia Gresley, Sean Strode, Chris Bornholdt, Clint Hostettler, Ed Green and Joe Carpenter.

No – None.

REGULAR AGENDA

Consider Garfield County Purchase Contract for Services – Senior Meal Preparation (Renewal 2)

Senior Center Director Tami Sours presented a request to consider the Garfield County purchase contract for services – Senior Meal Preparation (Renewal 2). This a renewal contract to extend the 2021 RFP for another twelve months (July 1, 2023 – June 30, 2024) for senior meal preparation of the west end of the county that includes New Castle, Silt, Rifle and Parachute. The renewal contract will keep the reimbursement rate of \$11.50 per meal with an annual cap of \$196,650.00. Changes in staff and food ordering have significantly helped with maintaining meal rates. Staff recommends approval of Purchase Contract for Services – Senior Meal Preparation (Renewal 2).

Senior Center Director Tami Sours answered questions for Council.

Councilor Clint Hostettler moved to approve the purchase contract for services - Preparation of Senior Meals from July 1, 2023 to June 30, 2024 for New Castle, Silt, Rifle and Parachute; seconded by Councilor Joe Carpenter.

Roll Call: Yes - Sean Strode, Joe Carpenter, Chris Bornholdt, Clint Hostettler, Alicia Gresley and Ed Green.

No – None.

Consider Ordinance No. 12, Series of 2023 – Amending Section 6-5-170 of the Rifle Municipal Code to Update the Duration of a Responsible Service of Alcohol Certificate – 1st Reading

City Clerk Misty Williams presented a request to consider Ordinance No. 12, Series of 2023 – Amending Section 6-5-170 of the Rifle Municipal Code to Update the Duration of a Responsible Service of Alcohol Certificate – 1st Reading. Responsible Service of Alcohol certificates are required for any person who will be serving alcoholic beverages in establishments with a liquor license, including special events serving alcohol and tastings events. The RSA certificates are issued to persons who have completed the necessary training required by the State of Colorado Liquor Enforcement Division (LED), from a LED-approved training vendor. The State of Colorado LED modified the term limitations on Responsible Service of Alcohol (RSA) certificates at the beginning of the year. Previously, the RSA certificates were valid for three (3) years from the date of issuance. The new State of Colorado rule sets RSA certificates are now valid for a period of two (2) years from the date of issuance. In order to be compliant with LED's new RSA certificate valid period this ordinance will update City of Rifle's municipal code.

Councilor Alicia Gresley moved to approve Ordinance No. 12, Series of 2023 on 1st reading and order it to be published by title as required by Charter; seconded by Councilor Sean Strode.

Roll Call: Yes - Ed Green, Sean Strode, Alicia Gresley, Clint Hostettler, Chris Bornholdt and Joe Carpenter.

No – None.

Report to City Manager

Reports were heard from City Manager Tommy Klein.

Comments from Mayor and Council

Comments were heard from Councilor Alicia Gresley, Councilor Sean Strode, Councilor Clint Hostettler and Councilor Chris Bornholdt.

Adjournment

Meeting adjourned at 7:34 p.m.

Misty Williams
City Clerk

Ed Green
Mayor



Agenda Item #5.c.

Agenda Item Name:

Consider Liquor License Renewal for RCG Rifle, LLC dba Rib City Grill

Presenter:

Misty Williams, City Clerk

Item Description:

Hotel & Restaurant Liquor License Renewal for RCG Rifle, LLC dba Rib City Grill

Recommended Action:

I move to approve the Liquor License Renewal application for RCG Rifle, LLC dba Rib City Grill

Fiscal Impact:

None

Operational Impact:

None

Prior Board Motions:

None

Background Information:

RCG Rifle, LLC dba Rib City Grill located at 707 Wapiti Avenue, Rifle, CO has submitted a Hotel & Restaurant Liquor License Renewal Application.

The application is complete and the appropriate fees have been paid.

Executive Summary:

None

Notification Requirements:

None

Prepared By:

Alexis Ramirez, Deputy City Clerk

Attachments:

1. REDACTED Rib City Grill License Renewal

Submit to Local Licensing Authority

RIB CITY GRILL
PO BOX 909
Grand Junction CO 81501

RECEIVED

JUN 16 2023

City Clerk
City of Rifle

Fees Due	
Renewal Fee	550.00
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Colorado Beer and Wine License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name RCG RIFLE LLC		Doing Business As Name (DBA) RIB CITY GRILL	
Liquor License # 42-47481-0000	License Type Hotel & Restaurant (city)		
Sales Tax License Number 042474810000	Expiration Date 07/26/2023	Due Date 06/11/2023	
Business Address 707 WAPITI AVENUE Rifle CO 81650-3432			Phone Number 9706253333
Mailing Address PO BOX 909 Grand Junction CO 81501		Email accounting@rcgwest.com	
Operating Manager Shawna Garcia	Date of Birth	Home Address	Phone Number
1. Do you have legal possession of the premises at the street address above? ☒ Yes ☐ No Are the premises owned or rented? ☐ Owned ☒ Rented* *If rented, expiration date of lease <u>3-01-24</u>			
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. ☐ Yes ☒ No			
3a. Are you renewing a takeout and/or delivery permit? (Note: must hold a qualifying license type and be authorized for takeout and/or delivery license privileges) ☒ Yes ☐ No			
3b. If so, which are you renewing? ☐ Delivery ☐ Takeout ☒ Both Takeout and Delivery			
4a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? ☐ Yes ☒ No			
4b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? ☐ Yes ☒ No			
5. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. ☐ Yes ☒ No			
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. ☐ Yes ☒ No			

7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. ☐ Yes ☒ No
8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. ☒ Yes ☐ No

Affirmation & Consent

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name, of Applicant/Authorized Agent of Business <i>MICHAEL SPRADLIN</i>	Title <i>DWVER</i>
Signature <i>[Signature]</i>	Date <i>6-9-23</i>

Report & Approval of City or County Licensing Authority

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.

Therefore this application is approved.

Local Licensing Authority For		Date
Signature	Title	Attest

Tax Check Authorization, Waiver, and Request to Release Information

I, MICHAEL SPRADLIN am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of RIB CITY GRILL (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101, et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) <u>RCB RIFLE LLC</u>		Social Security Number/Tax Identification Number	
Address <u>707 WAPITI AVE., STE 103</u>			
City <u>RIFLE</u>		State <u>CO</u>	Zip <u>81650</u>
Home Phone Number		Business/Work Phone Number <u>970-625-3333</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>MICHAEL SPRADLIN</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) <u>[Signature]</u>			Date signed <u>8-9-2023</u>

Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).



Agenda Item #5.d.

Agenda Item Name:

Consider Report of Changes - Change of Manager for Kum & Go, LC dba Kum & Go #922

Presenter:

Misty Williams, City Clerk

Item Description:

Change of Manager for Kum & Go, LC dba Kum & Go #922

Recommended Action:

Approve change of manager for Kum & Go, LC dba Kum & Go #922

Fiscal Impact:

None

Operational Impact:

None

Prior Board Motions:

None

Background Information:

Kum & Go, LC dba Kum & Go #922 located at 120 East 26th Street, Rifle, CO has submitted a Report of Changes (Change of Manager-Fermented Malt Beverage Liquor License) application. The former manager was Trina Sanchez, and the new manager is Hollie Doyle.

The following criteria have been met by the applicant:

- *The application is complete
- *No fees are required with this change

I recommend approval of the Report of Changes (Change of Manager - Fermented Malt Beverage) application for Kum & Go, LC dba Kum & Go #922

Executive Summary:

None

Notification Requirements:

None

Prepared By:

Alexis Ramirez, Deputy City Clerk

Attachments:

1. Report of Changes - Kum & Go LC

RECEIVED

JUN 3 2023

Permit Application and Report of Changes

**City Clerk
City of Rifle**

All Answers Must Be Printed in Black Ink or Typewritten

1. Applicant is a		License Number	
☐ Corporation ☐ Individual ☐ Partnership ☒ Limited Liability Company		1240424-0014	
2. Name of Licensee Kum & Go LC		3. Trade Name of Establishment (DBA) Kum & Go #922	
4. Address of Premises (specify exact location of premises) 120 East 26th Street		5. Business Email Address licenses@kumandgo.com	
City Rifle	County Garfield	State CO	ZIP 81650
		Business Phone Number 515-274-7793	
SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.			
Section A – Manager Reg/Change		Section C	
☐ Manager's Registration (Hotel & Restr.) \$30.00 ☐ Manager's Registration (Tavern) \$30.00 ☐ Manager's Registration (Lodging & Entertainment) \$30.00 ☒ Change of Manager (Other Licenses pursuant to section 44-3-301(8), C.R.S.) NO FEE <i>Please note that Manager's Registration for Hotel & Restaurant, Lodging & Entertainment, and Tavern licenses requires a local fee with submission to the local licensing authority as well. Please reach out to local licensing authorities directly regarding local processing and fees.</i>		☐ Retail Warehouse Storage Permit (ea) \$100.00 ☐ Wholesale Branch House Permit (ea)..... \$100.00 ☐ Change Corp. or Trade Name Permit (ea)..... \$50.00 ☐ Change Location Permit (ea) \$150.00 ☐ Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change..... \$150.00 ☐ Change, Alter or Modify Premises \$150.00 x Total Fee: ☐ Addition of Optional Premises to Existing H/R \$100.00 x Total Fee: ☐ Addition of Related Facility to an Existing Resort or Campus Liquor Complex \$160.00 x Total Fee: ☐ Campus Liquor Complex Designation No Fee ☐ Sidewalk Service Area \$75.00	
Section B – Duplicate License			
☐ Duplicate License \$50.00			

Do Not Write in This Space – For Department of Revenue Use Only		
Date License Issued	License Account Number	Period
The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.		TOTAL AMOUNT DUE \$ 0 .00

Instruction Sheet

For All Sections, Complete Questions 1-5 Located on Page 1

☒ Section A

To Register or Change Managers, check the appropriate box in section A and complete question 9 on page 4. Proceed to the Oath of Applicant for signature. Submit to State Licensing Authority for approval.

☐ Section B

For a Duplicate license, be sure to include the liquor license number in section B on page 1 and proceed to page 5 for Oath of Applicant signature.

☐ Section C

Check the appropriate box in section C and proceed below.

- 1) **For a Retail Warehouse Storage Permit**, go to page 3 complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 2) **For a Wholesale Branch House Permit**, go to page 3 and complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 3) **To Change Trade Name or Corporation Name**, go to page 3 and complete question 6 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 4) **To modify Premise, or add Sidewalk Service Area**, go to page 4 and complete question 10. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 5) **For Optional Premises** go to page 4 and complete question 10. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County).
- 6) **To Change Location**, go to page 3 and complete question 7. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 7) **Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change**, go to page 4, and complete question 8. Use this section to make a current Noncontiguous Manufacturing Location into a Primary Manufacturing Location, or a Primary Manufacturing Location into a Noncontiguous Manufacturing Location. To be eligible for a Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change, you must be a Colorado state licensed manufacturer of vinous liquor pursuant to section 44-3-402 or 44-3-403, C.R.S.
- 8) **Campus Liquor Complex Designation**, go to page 5 and complete question 11. Submit the necessary information and proceed to page 5 for Oath of Applicant signature.
- 9) **To add another Related Facility** to an existing Resort or Campus Liquor Complex, go to page 5 and complete question 12.

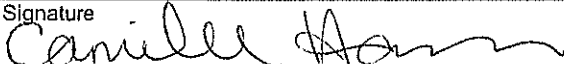
Storage Permit	5. Retail Warehouse Storage Permit or a Wholesalers Branch House Permit ☐ Retail Warehouse Permit for: ☐ On-Premises Licensee (Taverns, Restaurants etc.) ☐ Off-Premises Licensee (Liquor stores) ☐ Wholesalers Branch House Permit Address of storage premise: _____ City _____, County _____ ZIP _____ Attach a deed/lease or rental agreement for the storage premises. Attach a detailed diagram of the storage premises.								
Change Trade Name or Corporate Name	6. Change of Trade Name or Corporation Name ☐ Change of Trade name/DBA only ☐ Corporate Name Change (Attach the following supporting documents) 1. Certificate of Amendment filed with the Secretary of State, or 2. Statement of Change filed with the Secretary of State, <u>and</u> 3. Minutes of Corporate meeting, Limited Liability Members meeting, Partnership agreement. <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 50%; padding: 2px;">Old Trade Name</td><td style="width: 50%; padding: 2px;">New Trade Name</td></tr> <tr> <td style="height: 20px;"></td><td style="height: 20px;"></td></tr> <tr> <td style="padding: 2px;">Old Corporate Name</td><td style="padding: 2px;">New Corporate Name</td></tr> <tr> <td style="height: 20px;"></td><td style="height: 20px;"></td></tr> </table>	Old Trade Name	New Trade Name			Old Corporate Name	New Corporate Name		
Old Trade Name	New Trade Name								
Old Corporate Name	New Corporate Name								
Change of Location	7. Change of Location NOTE TO RETAIL LICENSEES: An application to change location has a local application fee of \$750 payable to your local licensing authority. You may only change location within the same jurisdiction as the original license that was issued. Pursuant to 44-3-311(1) C.R.S. Your application must be on file with the local authority thirty (30) days before a public hearing can be held. Date filed with Local Authority _____ Date of Hearing _____ (a) Address of current premises _____ City _____ County _____ ZIP _____ (b) Address of proposed New Premises (Attach copy of the deed or lease that establishes possession of the premises by the licensee) Address _____ City _____ County _____ ZIP _____ (c) New mailing address if applicable. Address _____ City _____ County _____ State _____ ZIP _____ (d) Attach detailed diagram of the premises showing where the alcohol beverages will be stored, served, possessed or consumed. Include kitchen area(s) for hotel and restaurants.								

Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change	8. Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change Select the option that applies to your situation: ☐ Make a current Primary Manufacturing Location (Location 1) into a Noncontiguous Location (Location 2); or ☐ Make a current Noncontiguous Manufacturing Location (Location 1) into a Primary Manufacturing Location (Location 2). (a) Address of Location 1: _____ City _____ County _____ ZIP _____ (b) Address of Location 2: _____ City _____ County _____ ZIP _____
Change of Manager	9. Change of Manager or to Register the Manager of a Tavern, Hotel and Restaurant, Lodging & Entertainment liquor license or licenses pursuant to section 44-3-301(8), C.R.S. (a) Change of Manager Former manager's name <u>Trina Sanchez</u> New manager's name <u>Hollie Doyle</u> (b) Date of Employment <u>4/4/2013</u> Has manager ever managed a liquor licensed establishment? ☒ Yes ☐ No Does manager have a financial interest in any other liquor licensed establishment? ☐ Yes ☒ No If yes, give name and location of establishment <u>Kum & Go Training Location</u>
Modify Premises or Addition of Optional Premises, Related Facility, or Sidewalk Service Area	10. Modification of Premises, Addition of an Optional Premises, Addition of Related Facility, or Addition of a Sidewalk Service Area NOTE: Licensees may not modify or add to their licensed premises until approved by state and local authorities. (a) Describe change proposed _____ _____ _____ (b) If the modification is temporary, when will the proposed change: Start _____ (mo/day/year) End _____ (mo/day/year) NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00 (c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary? (If yes, explain in detail and describe any exemptions that apply) ☐ Yes ☐ No (d) Is the proposed change in compliance with local building and zoning laws? ☐ Yes ☐ No (e) If this modification is for an additional Hotel and Restaurant Optional Premises has the local authority authorized by resolution or ordinance the issuance of optional premises? ☐ Yes ☐ No (f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises. (g) Attach any existing lease that is revised due to the modification. (h) For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), 1 C.C.R. 203-2, include documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.

Campus Liquor Complex Designation	11. Campus Liquor Complex Designation An institution of higher education or a person who contracts with the institution to provide food services (a) I wish to designate my existing _____ Liquor License # _____ to a Campus Liquor Complex ☐ Yes ☐ No
Additional Related Facility	12. Additional Related Facility To add a Related Facility to an existing Resort or Campus Liquor Complex, include the name of the Related Facility and include the address and an outlined drawing of the Related Facility Premises. (a) Address of Related Facility _____ (b) Outlined diagram provided ☐ Yes ☐ No

Oath of Applicant

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge

Signature 	Print name and Title Camille Hayes - Compliance Analyst	Date 6/30/2023
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Report and Approval of LOCAL Licensing Authority (CITY / COUNTY)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 44, Articles 4 and 3, C.R.S., as amended. **Therefore, This Application is Approved.**

Local Licensing Authority (City or County)	Date filed with Local Authority
Signature	Title
	Date

Report of STATE Licensing Authority

The foregoing has been examined and complies with the filing requirements of Title 44, Article 3, C.R.S., as amended.

Signature	Title	Date
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Agenda Item #5.e.

Agenda Item Name:

Consider Adopting the 2024 Budget Preparation Calendar

Presenter:

Scott Rust, Finance Director

Item Description:

Consider and adopt the proposed 2024 Budget Preparation Calendar.

Recommended Action:

Move to approve the 2024 Budget Preparation Calendar as presented and approve Resolution No. 19 Series of 2023 - Budget Preparation Calendar 2024

Fiscal Impact:

The budget calendar will guide the budget preparation process for 2024.

Operational Impact:

N/A

Prior Board Motions:

N/A

Background Information:

Council, per Article IX of the City of Rifle Charter, must formally adopt a Budget Calendar on an annual basis. The 2024 Budget Preparation Calendar, as presented, will guide all budget preparation activities and significant compliance deadlines (State of Colorado and City of Rifle Municipal Code).

Executive Summary:

Council is required to set forth and adopt a budget calendar on an annual basis to guide the budget process.

Notification Requirements:

N/A

Prepared By:

Scott Rust, Finance Director

Attachments:

1. Resolution No. 19 - Budget Preparation Calendar 2024

**CITY OF RIFLE, COLORADO
RESOLUTION NO. 19, SERIES OF 2023**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIFLE,
COLORADO, ADOPTING THE CALENDAR FOR THE 2024 BUDGET.

WHEREAS, Article IX of the Charter of the City of Rifle requires the City Manager to submit an annual budget to the City Council each year to comply with the Local Government Budget Law of Colorado and the City wishes to adopt a schedule for the 2024 Budget Preparation Process.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIFLE, COLORADO, THAT:

1. The City incorporates the foregoing recitals as findings by the City Council.
2. The following schedule is adopted for preparation of the 2024 Budget:

Friday, August 25, 2023:	Deadline for Assessor to submit Preliminary Certification of Values
Wednesday, September 20, 2023:	First Budget workshop with Council
Wednesday, September 27, 2023:	Second Budget workshop with Council
Wednesday, October 4, 2023:	Proposed Budget Presentation to Council, “Notice of Budget” Published (October 15 th deadline)
Thursday, October 5, 2023:	Proposed Budget available to public
Wednesday, November 1, 2023:	Third Budget workshop with Council
Wednesday, November 15, 2023:	Public hearing for Budget approval at regular City Council meeting, Adopt and appropriate 2024 Budget
Wednesday, November 15, 2023:	Certify mill levies to Garfield County
Friday, December 15, 2023:	Statutory deadline for Final Certification of Values
Friday, December 15, 2023:	Deadline for certification of mill levy to Garfield County
Wednesday, January 31, 2024:	Deadline for a certified copy of Adopted Budget to State Auditor (DLG)

3. This Resolution shall be published in the Rifle Citizen Telegram and posted at City Hall.

THIS RESOLUTION was read, passed, and adopted by the Rifle City Council at a regular meeting held this 5th day of July, 2023.

CITY OF RIFLE, COLORADO

By _____
Mayor

ATTEST:

City Clerk



Agenda Item #5.f.

Agenda Item Name:

Consider Approval of Ordinance No. 12, Series of 2023 - Amending Section 6-5-170 of the Rifle Municipal Code to Update the Duration of a Responsible Service of Alcohol Certificate - 2nd Reading

Presenter:

Misty Williams, City Clerk

Item Description:

Consider Ordinance No. 12, Series of 2023 - Amending Section 6-5-170 of the Rifle Municipal Code to Update the Duration of a Responsible Service of Alcohol Certificate - 2nd Reading

Recommended Action:

Move to approve Ordinance No. 12, Series of 2023 - Amending Section 6-5-170 of the Rifle Municipal Code to Update the Duration of a Responsible Service of Alcohol Certificate on second reading, and order it to be published by title as required by charter.

Fiscal Impact:

None

Operational Impact:

None

Prior Board Motions:

None

Background Information:

The State of Colorado Liquor Enforcement Division (LED) modified the term limitations on Responsible Service of Alcohol (RSA) certificates.

Previously, the RSA certificates were valid for three (3) years from the date of issuance. New State of Colorado rules state that RSA Certificates are now valid for a time period of two (2) years from the date of issuance.

Ordinance No. 12, Series of 2023 amends Section 6-5-170 of the Rifle Municipal Code to reflect these duration changes.

Responsible Service of Alcohol certificates are REQUIRED for any persons serving alcoholic beverages in establishments with a liquor license, including special events serving alcohol and tastings events. The RSA certificates are issued to persons who have completed the necessary training required by the LED, from a LED-approved training vendor. Responsible Service of Alcohol training covers the following:

1. Train and educate sellers and servers to engage in responsible alcohol service
2. Spot signs of intoxication and utilize various intervention techniques
3. Stopping underage sales and underage drinking
4. Create safer communities and establishments where alcohol is served
5. Education for owners, managers, and staff on liability, state laws, and local ordinances regarding alcohol service

RSA certificates are required as part of any liquor license application (including renewals) at both local (City of Rifle) and State of Colorado levels.

Executive Summary:

See above

Notification Requirements:

None

Prepared By:

Misty Williams, City Clerk

Attachments:

1. Ordinance No. 12-Liquor License Education Amendments

**CITY OF RIFLE, COLORADO
ORDINANCE NO. 12
SERIES OF 2023**

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO, AMENDING
SECTION 6-5-170 OF THE RIFLE MUNICIPAL CODE TO UPDATE THE
DURATION OF A RESPONSIBLE SERVING OF ALCOHOL CERTIFICATE.

WHEREAS, the City of Rifle (“Rifle” or the “City”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Rifle Home Rule Charter; and

WHEREAS, Section 6-5-170 of the Rifle Municipal Code (the “Code”) sets forth the education requirements for liquor license holders in the City; and

WHEREAS, the required Responsible Serving of Alcohol Certificate remained valid for 3 years as reflected in the Code but is now only valid for 2 years; and

WHEREAS, the City Council desires to amend the Code to update the duration of the Responsible Serving of Alcohol Certificate.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF RIFLE, COLORADO, ORDAINS THAT:

1. Incorporation. The Rifle City Council adopts the foregoing recitals and conclusions as facts and determinations and incorporates them by reference as if set forth in full herein.

2. Code Amendment. Section 6-5-170(a)(1) of the Rifle Municipal Code is hereby amended as follows, with underlined text added and ~~strike through language deleted~~:

Sec. 6-5-170. - Education requirements for licensees.

(a) Education requirements.

- (1) All managers or owners/operators registered with the State and the Liquor Licensing Authority are required to attend an educational liquor seminar approved by the Liquor Licensing Authority and receive a certificate of completion. Successful completion of the educational liquor seminar must be recorded with the Liquor Licensing Authority. The certificate of completion shall be valid for a period of ~~three (3)~~ two (2) years.

INTRODUCED on June 21, 2023, read by title, passed on first reading without amendment, and ordered published as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on July 5, 2023, passed without amendment, approved and ordered published in full as required by Charter.

Dated this _____ day of _____, 2023.

CITY OF RIFLE, COLORADO

By: _____
Mayor

ATTEST:

City Clerk



Agenda Item #7.a.

Agenda Item Name:

Receive Update from Habitat for Humanity on the Home Manufacturing Project

Presenter:

Gail Schwartz

Item Description:

Representatives from Habitat for Humanity will present an update on the home manufacturing project.

Recommended Action:

None

Fiscal Impact:

None

Operational Impact:

None

Prior Board Motions:

None

Background Information:

Gail Schwartz is the director of Roaring Fork Habitat for Humanity and David Mylar is the attorney representing the organization. Habitat for Humanity has plans to rent property from Rifle to manufacture homes. An update on the project will be presented to the Council. The lease for this project is set for Council consideration in the Regular Agenda this evening.

Executive Summary:

Gail Schwartz is the director of Roaring Fork Habitat for Humanity and David Mylar is the attorney representing the organization. Habitat for Humanity has plans to rent property from Rifle to manufacture homes. An update on the project will be presented to the Council. The lease for this project is set for Council consideration in the Regular Agenda this evening.

Notification Requirements:

None

Prepared By:

Alexis Ramirez, Deputy City Clerk

Attachments:

None



Agenda Item #8.a.

Agenda Item Name:

Consider Approval of Ordinance No. 14, Series of 2023 - Xcel Franchise Agreement - 1st Reading

Presenter:

James S. Neu, City Attorney

Item Description:

Consider Ordinance No. 14, Series of 2023- Xcel Franchise Agreement - 1st Reading

Recommended Action:

Move to approve of Ordinance No. 14, Series of 2023 on first reading, as presented, and order it to be published by title as required by charter.

Fiscal Impact:

Please see the attached memo.

Operational Impact:

None

Prior Board Motions:

None

Background Information:

The City of Rifle proposed a Charter Amendment at the 2023 General Election last November to remove the requirement to have a vote on franchise agreements. The Rifle electorate approved this Charter Amendment, which now requires at least five Council members to approve the Ordinance granting a franchise.

Executive Summary:

Please see the attached memo.

Notification Requirements:

Public Hearing Notice was published in the Glenwood Springs Post Independent on Friday, June 16, 2023, Friday, June 23, 2023, and Friday, June 30, 2023 by Xcel Energy.

Prepared By:

Misty Williams, City Clerk

Attachments:

1. 20230705-Memo-Ordinance No. 14, Series of 2023-Xcel Franchise Agreement
2. Rifle Franchise Agreement (E and G) - Final Version

3. Ordinance No. 14, Series 2023-Xcel Franchise Agreement

Glenwood Springs – Main Office
201 14th Street, Suite 200
P. O. Drawer 2030
Glenwood Springs, CO 81602

Aspen
0133 Prospector Road,
Suite 4102J
Aspen, CO 81611

Montrose
1544 Oxbow Drive
Suite 224
Montrose, CO 81402

James S. Neu
Partner/Shareholder

jsn@mountainlawfirm.com

Direct: 970.928.2121

Office: 970.945.2261

Fax: 970.945.7336

**Direct Mail to Glenwood Springs*

TO: Rifle City Council

FROM: Karp Neu Hanlon, P.C.

RE: Ordinance No. 14, Series of 2023-Franchise Agreement with Xcel Energy

DATE: June 27, 2023

For your consideration on first reading at the July 5, 2023 City Council meeting is Ordinance No. 14, Series of 2023 granting a gas and electric franchise within the City of Rifle to Public Service Company of Colorado (“Xcel”). The terms of the franchise are contained in the Franchise Agreement attached to the ordinance. Pursuant to C.R.S. §31-32-102, Notice of Application must be published in a newspaper of general circulation for a City to consider approving a Franchise, and Xcel has satisfied that requirement.

Xcel currently provides gas and electricity service to the City under a franchise agreement adopted in 2003. The current franchise agreement expires on September 8, 2023. The City has negotiated an updated agreement with Xcel over the past several months based on modern franchise agreements adopted by municipalities throughout the state and comments from City staff.

The term of the new agreement is 20 years. Subject to approval by Council, it would take effect on September 9, 2023, and terminate on September 8, 2043. The grant of franchise gives Xcel the non-exclusive right to (1) use the City streets, City public utility easements, and other City property to provide gas and electric service to the City and its residents and to (2) install, maintain, and operate Xcel facilities in and through the City reasonably necessary for the provision of utility service in the City. Xcel needs to comply with the Rifle Municipal Code in utilizing the City’s rights-of-way.

Xcel will pay the City a 3% franchise fee, as it currently does, which is 3% of all gross revenues from its sale of gas and electricity to customers within the City. The franchise agreement gives Xcel the right to provide street lighting and traffic signal lighting services in the City at the City’s direction, without payment of the franchise fee. The agreement also requires Xcel to allocate and maintain an undergrounding fund (1% annually of gross electric revenues) for the purpose of moving certain existing electric distribution lines underground in specified circumstances.

The City’s relationship with Xcel is additionally governed by Xcel’s tariff sheets, which are published and applicable to all customers, including retail and business customers within the City,

and the City itself when it purchases gas or electricity as a customer. The tariffs address streetlighting service (including repair and replacement), liability and indemnification where the City is a customer, and many other aspects of Xcel's service within the City and commercial relationship with the City.

The Franchise Agreement and the adoption process complies with the provisions of Article XII of the City's Home Rule Charter addressing the granting of franchises. This franchise, subject to the Council's approval, will be authorized by an ordinance adopted by Council (required by Article 12.2). Additionally, the franchise is non-exclusive, and the term is 20 years (Article 12.4 of the Charter). The City retains the authority under the franchise agreement to construct, condemn, purchase, operate, and maintain its own utilities (Article 12.8 of the Charter). Finally, the franchise agreement expressly preserves and does not limit the City's ability to regulate using its police powers (Rifle Code Chapter 5, Article 2, section 20).

If you recall, the City proposed a Charter Amendment at the General Election last November to remove the requirement to have a vote on franchise agreements. The Rifle electorate approved this Charter Amendment which now requires at least five Council members to approve the Ordinance granting a franchise. Because the City incurred costs with that election and Xcel does not need to pay for a special election as the Charter used to require, Xcel agreed to contribute \$2,000 to the City towards those election costs.

FRANCHISE AGREEMENT
BETWEEN
THE CITY OF RIFLE, COLORADO
AND
PUBLIC SERVICE COMPANY OF COLORADO

Article 1 DEFINITIONS AND PRINCIPLES OF CONSTRUCTION	1
Article 2 GRANT OF FRANCHISE	5
Article 3 CITY POLICE POWERS	6
Article 4 FRANCHISE FEE	7
Article 5 ADMINISTRATION OF FRANCHISE	9
Article 6 SUPPLY, CONSTRUCTION AND DESIGN	10
Article 7 RELIABILITY	17
Article 8 COMPANY PERFORMANCE OBLIGATIONS	17
Article 9 BILLING AND PAYMENT	19
Article 10 USE OF COMPANY ELECTRIC DISTRIBUTION POLES	20
Article 11 UNDERGROUNDING OF OVERHEAD ELECTRIC DISTRIBUTION LINES	21
Article 12 PURCHASE OR CONDEMNATION	24
Article 13 MUNICIPALLY PRODUCED UTILITY SERVICE	25
Article 14 ENVIRONMENT AND CONSERVATION	25
Article 15 TRANSFER OF FRANCHISE	27
Article 16 CONTINUATION OF UTILITY SERVICE	27
Article 17 INDEMNIFICATION AND IMMUNITY	28
Article 18 BREACH	28
Article 19 AMENDMENTS	29
Article 20 EQUAL OPPORTUNITY	30
Article 21 MISCELLANEOUS	32

TABLE OF CONTENTS

Article 1	DEFINITIONS AND PRINCIPLES OF CONSTRUCTION	1
Section 1.1	Defined Terms.	1
Section 1.2	Singular/Plural.	4
Section 1.3	Mandatory/Permissive.	4
Article 2	GRANT OF FRANCHISE	5
Section 2.1	Grant of Franchise.....	5
Section 2.2	Conditions and Limitations.....	5
Section 2.3	Effective Date and Term.....	6
Article 3	CITY POLICE POWERS.....	6
Section 3.1	Police Powers.....	6
Section 3.2	Regulation of Streets and Other City Property.	6
Section 3.3	Compliance with Laws.	6
Section 3.4	Industry Standards.	6
Article 4	FRANCHISE FEE	7
Section 4.1	Franchise Fee.	7
Section 4.2	Remittance of Franchise Fee.....	8
Article 5	ADMINISTRATION OF FRANCHISE	9
Section 5.1	City Designee.....	9
Section 5.2	Company Designee.	9
Section 5.3	Coordination of Work.	10
Article 6	SUPPLY, CONSTRUCTION AND DESIGN	10
Section 6.1	Purpose.....	10
Section 6.2	Supply.	10
Section 6.3	Charges to the City for Service to City Facilities.	10
Section 6.4	Restoration of Service.....	11
Section 6.5	Obligations Regarding Company Facilities.....	11
Section 6.6	As-Built Drawings.	12
Section 6.7	Excavation and Construction.	13
Section 6.8	Restoration.	13
Section 6.9	Relocation of Company Facilities.....	14
Section 6.10	New or Modified Service Requested by City.	16
Section 6.11	Service to New Areas.....	16
Section 6.12	City Not Required to Advance Funds.	16
Section 6.13	Technological Improvements.....	16
Article 7	RELIABILITY.....	17
Section 7.1	Reliability.....	17
Section 7.2	Franchise Performance Obligations.....	17

Section 7.3	Reliability Reports.	17
Article 8 COMPANY PERFORMANCE OBLIGATIONS		17
Section 8.1	New or Modified Service to City Facilities.	17
Section 8.2	Adjustments to Company Facilities.	18
Section 8.3	Third Party Damage Recovery.....	18
Article 9 BILLING AND PAYMENT		19
Section 9.1	Billing for Utility Services.....	19
Article 10 USE OF COMPANY ELECTRIC DISTRIBUTION POLES		20
Section 10.1	City Use of Company Electric Distribution Poles.	20
Section 10.2	Third Party Use of Company Electric Distribution Poles.....	20
Section 10.3	City Use of Company Transmission Rights-of-Way.	20
Section 10.4	Emergencies.....	20
Article 11 UNDERGROUNDING OF OVERHEAD ELECTRIC DISTRIBUTION LINES		
	21	
Section 11.1	Underground Electrical Lines in New Areas.	21
Section 11.2	Underground Conversion at Expense of Company.	21
Section 11.3	Undergrounding Performance.....	22
Section 11.4	Audit of Underground Program.	23
Section 11.5	Cooperation with Other Utilities.....	24
Section 11.6	Planning and Coordination of Undergrounding Projects.....	24
Article 12 PURCHASE OR CONDEMNATION		24
Section 12.1	Municipal Right to Purchase or Condemn.....	24
Article 13 MUNICIPALLY PRODUCED UTILITY SERVICE		25
Section 13.1	Municipally Produced Utility Service.	25
Article 14 ENVIRONMENT AND CONSERVATION		25
Section 14.1	Environmental Leadership.	25
Section 14.1	Conservation.	26
Section 14.2	Continuing Commitment.	26
Section 14.3	PUC Approval.....	27
Section 14.4	Sustainability Committee.....	27
Article 15 TRANSFER OF FRANCHISE.....		27
Section 15.1	Consent of City Required.....	27
Section 15.2	Transfer Fee.	27
Article 16 CONTINUATION OF UTILITY SERVICE		27
Section 16.1	Continuation of Utility Service.....	27
Section 16.2	Compensation.	28
Article 17 INDEMNIFICATION AND IMMUNITY		28

Section 17.1	City Held Harmless.....	28
Section 17.2	Governmental Immunity Act.	28
Article 18 BREACH		28
Section 18.1	Change of Tariffs.	28
Section 18.2	Breach.	29
Article 19 AMENDMENTS		29
Section 19.1	Proposed Amendments.	29
Section 19.2	Effective Amendments.....	30
Article 20 EQUAL OPPORTUNITY		30
Section 20.1	Economic Development.....	30
Section 20.2	Employment.....	30
Section 20.3	Contracting.....	31
Section 20.4	Coordination.	31
Article 21 MISCELLANEOUS		32
Section 21.1	No Waiver.....	32
Section 21.2	Successors and Assigns.....	32
Section 21.3	Third Parties.....	32
Section 21.4	Notice.....	32
Section 21.5	Examination of Records.....	33
Section 21.6	Confidential or Proprietary Information.	34
Section 21.7	List of Utility Property.....	34
Section 21.8	PUC Filings.....	34
Section 21.9	Information.	35
Section 21.10	Payment of Taxes and Fees.....	35
Section 21.11	Conflict of Interest.	35
Section 21.12	Certificate of Public Convenience and Necessity.....	35
Section 21.13	Authority.....	35
Section 21.14	Severability.	36
Section 21.15	Force Majeure.	36
Section 21.16	Earlier Franchises Superseded.	36
Section 21.17	Titles Not Controlling.....	36
Section 21.18	Applicable Law.....	36
Section 21.19	Payment of Expenses Incurred by City in Relation to Franchise Agreement....	36
Section 21.20	Costs of Compliance with Franchise.	36
Section 21.21	Conveyance of City Streets, Public Utility Easements or Other City Property.	36
Section 21.22	Audit.	37
Section 21.23	Land Use Coordination.....	37
Section 21.24	Counterpart Signature.	37
Section 21.25	Approval.	37

**PUBLIC SERVICE COMPANY OF COLORADO
AND
THE CITY OF RIFLE, COLORADO**

GAS AND ELECTRIC FRANCHISE AGREEMENT

**ARTICLE 1
DEFINITIONS AND PRINCIPLES OF CONSTRUCTION**

Section 1.1 Defined Terms. In addition to the capitalized terms defined elsewhere in this Franchise, the following capitalized words and phrases shall have the meanings set forth below. Words not defined in this Article 1 or elsewhere in this Franchise shall be given their common and ordinary meaning.

“City” means the City of Rifle, a municipal corporation of the State of Colorado.

“City Designee” has the meaning ascribed in Section 5.1.

“Clean Energy” means energy produced from Renewable Energy Resources (as defined below), eligible energy sources, and by means of advanced technologies that cost-effectively capture and sequester carbon emissions produced as a by-product of power generation. For purposes of this definition, “cost” means all those costs as determined by the PUC.

“Company” means Public Service Company of Colorado, a Colorado corporation, and an Xcel Energy company and its successors and assigns including affiliates or subsidiaries that undertake to perform any of the obligations under this Franchise.

“Company Designee” has the meaning ascribed in Section 5.2.

“Company Facilities” refer to all facilities of the Company which are reasonably necessary or desirable to provide gas and/or electric service into, within and through the City, including but not limited to plants, works, systems, substations, transmission and distribution structures and systems, lines, equipment, pipes, mains, conduit, transformers, underground lines, gas compressors, meters, meter reading devices, communication and data transfer equipment, control equipment, gas regulator stations, street lights, wire, cables and poles as well as all associated appurtenances.

“Council” refers to and is the legislative body of the City.

“Effective Date” has the meaning ascribed in Error! Reference source not found.

“Electric Gross Revenues” refers to those amounts of money that the Company receives from the sale and/or delivery of electricity in the City, after adjusting for refunds, net write-offs of accounts, corrections, or Regulatory Adjustments (as defined below). Regulatory adjustments include, but are not limited to, credits, surcharges, refunds, and pro-forma adjustments pursuant to federal or state regulation. “Electric Gross Revenues” shall exclude

any revenue from the sale and/or delivery of electricity to the City as a customer of the Company.

“Energy Conservation” means the decrease in energy requirements of specific customers during any selected time period, resulting in a reduction in end-use services.

“Energy Efficiency” means the decrease in energy requirements of specific customers during any selected period with end-use services of such customers held constant.

“Franchise” or **“Franchise Agreement”** means this franchise agreement by and between the City and Company.

“Franchise Fee” has the meaning ascribed in Section 4.1(A).

“Force Majeure Event” means the inability to undertake an obligation of this Franchise Agreement due to a cause, condition or event that could not be reasonably anticipated by a party or is beyond a party’s reasonable control after exercise of best efforts to perform. Such cause, condition or event includes but is not limited to fire, strike, war, riots, terrorist acts, acts of governmental authority, acts of God, floods, epidemics, quarantines, labor disputes, unavailability or shortages of materials or equipment or failures or delays in the delivery of materials. Neither the City nor the Company shall be in breach of this Franchise if a failure to perform any of the duties under this Franchise is due to a Force Majeure Event.

“Gross Revenues” refers to those amounts of money the Company receives from the sale of gas and/or electricity within the City under rates authorized by the Public Utilities Commission, as well as from the transportation of gas to its customers within the City, as adjusted for refunds, net write-offs of uncollectible accounts, corrections, expense reimbursements or regulatory adjustments. Regulatory adjustments include, but are not limited to, credits, surcharges, refunds, and pro-forma adjustments pursuant to federal or state regulation. “Gross Revenues” shall exclude any revenues from the sale of gas or electricity to the City or the transportation of gas to the City.

“Industry Standards” refers to standards developed by government agencies and generally recognized organizations that engage in the business of developing utility industry standards for materials, specifications, testing, construction, repair, maintenance, manufacturing, and other facets of the electric and gas utility industries. Such agencies and organizations include, but are not limited to the U.S. Department of Transportation, the Federal Energy Regulatory Commission (FERC), the North American Electric Reliability Corporation (NERC), the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Colorado Public Utilities Commission, the American National Standards Institute (ANSI), the American Society for Testing and Materials (ASTM), the Pipeline Research Council International, Inc. (PRCI), the American Society of Mechanical Engineers (ASME), the Institute of Electric and Electronic Engineers (IEEE), the Electric Power Research Institute (EPRI), the Gas Technology Institute (GTI), the National Fire Protection Association (NFPA), and specifically includes the National Electric Safety Code (NESC).

“Open Space” refers to privately-owned property protected by real covenant, or publicly-owned property protected by covenant and/or designated by ordinance or resolution of the City Council, which covenant or designation designates the property for use as one (1) or more of the following: a community buffer; a wildlife corridor and habitat area; a wetland; a view corridor; agricultural land; an area of archeological, historical, geologic or topographic significance; an area containing significant renewable and/or nonrenewable natural resources; and/or other undesignated, typically non-irrigated, undeveloped land uses. Open Space shall not include Parks.

“Other City Property” refers to the surface, the air space above the surface and the area below the surface of any property owned by the City or directly controlled by the City due to the City’s real property interest in the same or hereafter owned by the City, that would not otherwise fall under the definition of “Streets,” but which provides a suitable location for the placement of Company Facilities as specifically approved in writing by the City. Other City Property does not include Public Utility Easements.

“Parks” refers to land area owned by the City, either independently or with another governmental or quasi-governmental entity, that is developed and maintained for active or passive recreational use and is open for the general public’s use and enjoyment; which, by way of example only, may include public playfields, courts, and other recreation facilities, or may include greenways, water features, picnic areas, or natural areas.

“Private Project” refers to any project not included in the definition of Public Project.

“Public Project” refers to (1) any public work or improvement within the City that is wholly owned by the City; or (2) any public work or improvement within the City where at least fifty percent (50%) or more of the funding is provided by any combination of the City, the federal government, the State of Colorado, or any Colorado county, but excluding all entities established under Title 32 of the Colorado Revised Statutes.

“Public Utilities Commission” or **“PUC”** refers to the Public Utilities Commission of the State of Colorado or other state agency succeeding to the regulatory powers of the Public Utilities Commission.

“Public Utility Easement” refers to any platted easement over, under, or above public or private property, expressly dedicated to, and accepted by, the City for the use of public utility companies for the placement of utility facilities, including but not limited to Company Facilities.

“Relocate” and **“Relocation,”** and any variation thereof, means a temporary or permanent change or alteration by the Company in the position of any Company Facilities.

“Renewable Energy Resources” means wind, solar, and geothermal resources; energy produced from biomass from nontoxic plant matter consisting of agricultural crops or their byproducts, urban wood waste, mill residue, slash, or brush, or from animal wastes and products of animal wastes, or from methane produced at landfills or as a by-product of the

treatment of wastewater residuals; new hydroelectricity with a nameplate rating of ten (10) megawatts or less; hydroelectricity in existence on January 1, 2005 with a nameplate rating of thirty (30) megawatts or less; fuel cells using hydrogen derived from a Renewable Energy Resource; recycled energy produced by a generation unit with a nameplate capacity of not more than fifteen (15) megawatts that converts the otherwise lost energy from the heat from exhaust stacks or pipes to electricity and that does not combust additional fossil fuel, and includes any eligible renewable energy resource as defined in C.R.S. § 40-2-124(1)(a), as the same may be amended from time to time.

“Residents” refers to all persons, businesses, industries, governmental agencies, including the City, and any other entity whatsoever presently located or to be hereinafter located, in whole or in part, within the territorial boundaries of the City.

“Streets” or **“City Streets”** refers to the surface, the air space above the surface and the area below the surface of any City -dedicated or City -maintained streets, alleys, bridges, roads, lanes, access easements, and other public rights-of-way within the City, which are primarily used for motorized vehicle traffic. Streets shall not include Public Utility Easements and Other City Property.

“Supporting Documentation” refers to all information reasonably required or needed in order to allow the Company to design and construct any work performed under the provisions of this Franchise. Supporting Documentation may include, but is not limited to, construction plans, a description of known environmental issues, the identification of critical right-of-way or easement issues, the final recorded plat for the property, the date the site will be ready for the Company to begin construction, the date gas service and meter set are needed, and the name and contact information for the City’s project manager.

“Tariffs” refer to those tariffs of the Company on file and in effect with the PUC or other governing jurisdiction, as amended from time to time.

“Underground Program” has the meaning ascribed in Section 11.2(A).

“Utility Service” refers to the sale of gas or electricity to Residents by the Company under Tariffs approved by the PUC, as well as the delivery of gas to Residents by the Company.

Section 1.2 Singular/Plural. Unless the context otherwise requires, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural.

Section 1.3 Mandatory/Permissive. The words “shall” and “will” are mandatory and the word “may” is permissive.

ARTICLE 2 GRANT OF FRANCHISE

Section 2.1 Grant of Franchise.

(A) Grant. The City hereby grants to the Company, subject to all conditions, limitations, terms, and provisions contained in this Franchise, the non-exclusive right to make reasonable use of City Streets, Public Utility Easements (as applicable) and Other City Property:

(1) to provide Utility Service to the City and to its Residents under the Tariffs; and

(2) to acquire, purchase, construct, install, locate, maintain, operate, upgrade and extend into, within and through the City all Company Facilities reasonably necessary for the generation, production, manufacture, sale, storage, purchase, exchange, transportation, transmission and distribution of Utility Service within and through the City.

(B) Street Lighting and Traffic Signal Lighting Service. The rights granted by this Franchise encompass the nonexclusive right to provide street lighting service and traffic signal lighting services as directed by the City and, where applicable, the provisions of this Franchise shall apply with full and equal force to street lighting service and traffic signal lighting service provided by the Company pursuant to its Tariffs. In the event of a conflict between the provisions of this Franchise and the Tariffs, the Tariffs shall control. Wherever reference is made in this Franchise to the sale or provision of Utility Service these references shall be deemed to include the provision of street lighting service and traffic signal lighting service.

Section 2.2 Conditions and Limitations.

(A) Scope of Franchise. The grant of this Franchise and the terms and conditions hereof shall extend to all areas of the City as it is now or hereafter constituted that are within the Company's PUC-certificated service territory; however, nothing contained in this Franchise shall be construed to authorize the Company to engage in activities other than the provision of Utility Service.

(B) Subject to City Usage. The Company's right to make reasonable use of City Streets and Other City Property to provide Utility Service to the City and its Residents under this Franchise is subject to and subordinate to any City usage of said Streets and Other City Property.

(C) Prior Grants Not Revoked. This grant and Franchise is not intended to and does not revoke any prior license, grant, or right to use the Streets, Other City Property or Public Utility Easements, and such licenses, grants or rights of use are hereby affirmed.

(D) Franchise Not Exclusive. The rights granted by this Franchise are not, and shall not be deemed to be, granted exclusively to the Company, and the City reserves the right to make or grant a franchise to any other person, firm, or corporation.

Section 2.3 Effective Date and Term. This Franchise shall take effect on September 9, 2023 (the “**Effective Date**”) and shall supersede any prior franchise grants to the Company by the City. This Franchise shall terminate on September 8, 2043, unless extended by mutual consent.

ARTICLE 3 CITY POLICE POWERS

Section 3.1 Police Powers The Company expressly acknowledges the City’s right to adopt, from time to time, in addition to the provisions contained herein, such laws, including ordinances and regulations, as it may deem necessary in the exercise of its governmental powers. If the City considers making any substantive changes in its local codes or regulations that in the City’s reasonable opinion will significantly impact the Company’s operations in the City’s Streets, Public Utility Easements and Other City Property, it will make a good faith effort to advise the Company of such consideration; provided, however, that lack of notice shall not be justification for the Company’s non-compliance with any applicable local requirements.

Section 3.2 Regulation of Streets and Other City Property. The Company expressly acknowledges the City’s right to enforce regulations concerning the Company’s access to or use of the Streets and/or Other City Property. In addition, the Company acknowledges the City’s right to require the Company to obtain permits for work in Streets, Other City Property, and Public Utility Easements.

Section 3.3 Compliance with Laws. The Company shall promptly and fully comply with all laws, regulations, permits and orders lawfully enacted by the City that are consistent with Industry Standards. Nothing herein provided shall prevent the Company from legally challenging or appealing the enactment or applicability of any laws, regulations, permits and orders enacted by the City. To the extent that the Company believes that any City regulations, permits and orders are inconsistent with Industry Standards, the City agrees to meet with the Company upon the Company’s written request for consideration of the matters at issue within a reasonable period of time.

Section 3.4 Industry Standards. In enacting laws and regulations and issuing permits that affect the Company’s access to or use of the Streets, Other City Property and Public Utility Easements, the City agrees to make good faith efforts to make its regulations and permit conditions consistent with Industry Standards to the extent practicable, and the Company agrees to make good faith efforts to advise the City of Industry Standards that affect the Company’s operations within the City. Without limiting the City’s police power in any way, the City will take into consideration any input from the Company on new regulations and permit conditions that the Company believes unnecessarily increase its costs of operations within the City.

ARTICLE 4 FRANCHISE FEE

Section 4.1 Franchise Fee.

(A) Fee. In consideration for this Franchise Agreement, which provides the certain terms related to the Company's use of City Streets, Public Utility Easements (as applicable) and Other City Property, which are valuable public properties acquired and maintained by the City at the expense of its Residents, and in recognition that the grant to the Company of this Franchise is a valuable right, the Company shall pay the City a sum equal to three percent (3%) of all Gross Revenues (the "**Franchise Fee**"). To the extent required by law, the Company shall collect the Franchise Fee from a surcharge upon City Residents who are customers of the Company.

(B) Obligation in Lieu of Franchise Fee. In the event that the Franchise Fee specified herein is declared void for any reason by a court of competent jurisdiction, unless prohibited by law, the Company shall be obligated to pay the City, at the same times and in the same manner as provided in this Franchise, an aggregate amount equal to the amount that the Company would have paid as a Franchise Fee as partial consideration for use of the City Streets, Public Utility Easements and Other City Property. Such payments shall be made in accordance with applicable provisions of law. Further, to the extent required by law, the Company shall collect the amounts agreed upon through a surcharge upon Utility Service provided to City Residents who are customers of the Company.

(C) Changes in Utility Service Industries. The City and the Company recognize that utility service industries are the subject of restructuring initiatives by legislative and regulatory authorities and are also experiencing other changes as a result of mergers, acquisitions, and reorganizations. Some of such initiatives and changes may have an adverse impact upon the Franchise Fee revenues provided for herein. In recognition of the length of the term of this Franchise, the Company agrees that in the event of any such initiatives or changes and to the extent permitted by law, upon receiving a written request from the City, the Company will cooperate with and assist the City in making reasonable modifications of this Franchise Agreement in an effort to ensure that the City receives an amount in Franchise Fees or some other form of compensation that is the same amount of Franchise Fees paid to the City as of the date that such initiatives and changes adversely impact Franchise Fee revenues.

(D) Utility Service Provided to the City. No Franchise Fee shall be charged to the City for Utility Service provided directly or indirectly to the City for its own consumption, including street lighting service and traffic signal lighting service, unless otherwise directed by the City in writing and in a manner consistent with Company Tariffs.

Section 4.2 Remittance of Franchise Fee.

(A) Remittance Schedule. Franchise Fees shall be remitted by the Company to the City as directed by the City in monthly installments not more than thirty (30) days following the close of each calendar month.

(B) Correction of Franchise Fee Payments. In the event that either the City or the Company discovers that there has been an error in the calculation of the Franchise Fee payment to the City, either party shall provide written notice of the error to the other party. If the party receiving written notice of the error does not agree with the written notice of error, that party may challenge the written notice of error pursuant to Section 4.2(D) of this Franchise; otherwise, the error shall be corrected in the next monthly payment. However, if the error results in an overpayment of the Franchise Fee to the City, and said overpayment is in excess of Five Thousand Dollars (\$5,000.00), correction of the overpayment by the City shall take the form of a credit against future Franchise Fees and shall be spread over the same period the error was undiscovered or the City shall make a full refund payment to the Company. If such period would extend beyond the term of this Franchise, the Company may elect to require the City to provide it with a refund instead of a credit, with such refund to be spread over the same period the error was undiscovered, even if the refund will be paid after the termination date of this Franchise. All Franchise Fee underpayments shall be corrected in the next monthly payment, together with interest computed at the rate set by the PUC for customer security deposits held by the Company, from the date when due until the date paid. Subject to the terms of the Tariffs, in no event shall either party be required to fund or refund any overpayment or underpayment made as a result of a Company error which occurred more than five (5) years prior to the discovery of the error.

(C) Audit of Franchise Fee Payments.

- (1) Company Audit. At the request of the City, every three (3) years commencing at the end of the third calendar year of the Term of this Franchise, the Company shall conduct an internal audit, in accordance with the Company's auditing principles and policies that are applicable to electric and gas utilities that are developed in accordance with the Institute of Internal Auditors, to investigate and determine the correctness of the Franchise Fees paid to the City. Such audit shall be limited to the previous three (3) calendar years. Within a reasonable period of time after the audit, the Company shall provide a written report to the City Clerk summarizing the audit procedures followed along with any findings.
- (2) City Audit. If the City disagrees with the results of the Company's audit, and if the parties are not able to informally resolve their differences, the City may conduct its own audit at its own expense, in accordance with generally accepted auditing principles applicable to electric and gas utilities that are developed in accordance with the Institute of Internal Auditors, and the Company shall cooperate by providing the City's auditor with non-confidential information

that would be required to be disclosed under applicable state sales and use tax laws and applicable PUC rules and regulations.

- (3) Underpayments. If the results of a City audit conducted pursuant to Section 4.2(C)(2) above concludes that the Company has underpaid the City by two percent (2%) or more, in addition to the obligation to pay such amounts to the City, the Company shall also pay all reasonable costs of the City's audit. The Company shall not be responsible for the costs of the City's audit when the underpayment is caused by errors from information provided by an entity certified by the Colorado Department of Revenue as a "hold harmless entity" or other similar entity recognized by the Colorado Department of Revenue.

(D) Fee Disputes. Either party may challenge any written notification of error as provided for in Section 4.2(B) of this Franchise by filing a written notice to the other party within thirty (30) days of receipt of the written notification of error. The written notice shall contain a summary of the facts and reasons for the party's notice. The parties shall make good faith efforts to resolve any such notice of error before initiating any formal legal proceedings for the resolution of such error.

(E) Reports. To the extent allowed by law, upon written request by the City, but not more than once per year, the Company shall supply the City with a list of the names and addresses of registered natural gas suppliers and brokers of natural gas that utilize Company Facilities to sell or distribute natural gas within the City. The Company shall not be required to disclose any confidential or proprietary information.

(F) Franchise Fee Payment Not in Lieu of Permit or Other Fees. Payment of the Franchise Fee by Company to City does not exempt the Company from any other lawful tax or fee imposed generally upon persons doing business within the City, except that the Franchise Fee provided for herein shall be in lieu of any occupation, occupancy or similar tax or fee for the Company's use of City Streets, Public Utility Easements or Other City Property under the terms set forth in this Franchise.

ARTICLE 5 ADMINISTRATION OF FRANCHISE

Section 5.1 City Designee. The City Clerk shall designate in writing to the Company an official or officials having full power and authority to administer this Franchise (whether one or more, the "City Designee"). The City Clerk may also designate one or more City representatives to act as the primary liaison with the Company as to particular matters addressed by this Franchise and shall provide the Company with the name(s) and telephone number(s) of said City Designee. The City Clerk may change these designations by providing written notice to the Company. The City's Designee shall have the right, at all reasonable times and with reasonable notice to the Company, to inspect any Company Facilities in City Streets and Other City Property.

Section 5.2 Company Designee. The Company shall designate a representative to act as the primary liaison with the City and shall provide the City with the name, address, and

telephone number for the Company's representative under this Franchise ("**Company Designee**"). The Company may change its designation by providing written notice to the City. The City shall use the Company Designee to communicate with the Company regarding Utility Service and related service needs for City facilities.

Section 5.3 Coordination of Work.

(A) The Company agrees to coordinate with the City its activities in City Streets, Public Utility Easements and Other City Property located in the City. The City and the Company will meet up to twice annually upon the written request of the City designee to exchange their respective short-term and long-term forecasts and/or work plans for construction and other similar work which may affect City Streets, including but not limited to any planned City Streets paving projects. The City and Company shall hold such meetings as either deems necessary to exchange additional information with a view toward coordinating their respective activities in those areas where such coordination may prove beneficial and so that the City will be assured that all applicable provisions of this Franchise, applicable building and zoning codes, and applicable City air and water pollution regulations are complied with, and that aesthetic and other relevant planning principles have been given due consideration.

(B) In addition to the foregoing meetings, the Company and the City agree to use good faith efforts to provide notice to one another whenever (i) the Company initiates plans to significantly upgrade its infrastructure within the City, including without limitation the replacement of utility poles and overhead lines; (ii) third-party applicants within the City initiate private land uses and projects requiring a significant installation of utility infrastructure; or (iii) the City initiates a project that requires significant upgrades to future gas and/or electric utility development by the Company, in order to allow for mutual City and Company input and consultation for beneficial coordination of activities.

ARTICLE 6 SUPPLY, CONSTRUCTION AND DESIGN

Section 6.1 Purpose. The Company acknowledges the critical nature of the municipal services performed or provided by the City to the Residents that require the Company to provide prompt and reliable Utility Service and the performance of related services for City facilities. The City and the Company wish to provide for certain terms and conditions under which the Company will provide Utility Service and perform related services for the City in order to facilitate and enhance the operation of City facilities. They also wish to provide for other processes and procedures related to the provision of Utility Service to the City.

Section 6.2 Supply. Subject to the jurisdiction of the PUC, the Company shall take all reasonable and necessary steps to provide a sufficient supply of gas and electricity to Residents at the lowest reasonable cost consistent with reliable supplies.

Section 6.3 Charges to the City for Service to City Facilities. No charges to the City by the Company for Utility Service (other than gas transportation which shall be subject to

negotiated contracts) shall exceed the lowest charge for similar service or supplies provided by the Company to any other similarly situated customer of the Company. The parties acknowledge the jurisdiction of the PUC over the Company's regulated intrastate electric and gas rates. All charges to the City shall be in accord with the Tariffs.

Section 6.4 Restoration of Service.

(A) Notification. The Company shall provide to the City daytime and nighttime telephone numbers of a Company Designee from whom the City may obtain status information from the Company on a twenty-four (24) hour basis concerning interruptions of Utility Service in any part of the City.

(B) Restoration. In the event the Company's gas system or electric system within the City, or any part thereof, is partially or wholly destroyed or incapacitated, the Company shall use due diligence to restore such system to satisfactory service within the shortest practicable period of time, or provide a reasonable alternative to such system if the Company elects not to restore such system.

Section 6.5 Obligations Regarding Company Facilities.

(A) Company Facilities. All Company Facilities within City Streets, Public Utility Easements and Other City Property shall be maintained in good repair and condition.

(B) Company Work within the City. All work within City Streets and Other City Property performed or caused to be performed by the Company shall be performed:

- (1) in a high-quality manner that is in accordance with Industry Standards;
- (2) in a timely and expeditious manner;
- (3) in a manner that reasonably minimizes inconvenience to the public;
- (4) in a cost-effective manner, which may include the use of qualified contractors; and
- (5) in accordance with all applicable City laws, ordinances, and regulations that are consistent with Industry Standards and the Tariffs.

(C) No Interference with City Facilities. Company Facilities shall not unreasonably interfere with any City facilities, including water facilities, sanitary or storm sewer facilities, communications facilities, or other City uses of the Streets, Public Utility Easements, or Other City Property. Company Facilities shall be installed and maintained in City Streets and Other City Property so as to reasonably minimize interference with other property, trees, and other improvements and natural features in and adjoining the Streets and Other City Property in light of the Company's obligation under Colorado law to provide safe and reliable utility facilities and services.

(D) Permit and Inspection. The installation, renovation, and replacement of any Company Facilities in the City Streets or Other City Property by or on behalf of the Company shall be subject to permit, inspection and approval by the City in accordance with applicable City laws. Such permitting, inspection and approval may include, but shall not be limited to, the following matters: location of Company Facilities, cutting and pruning of trees and shrubs and disturbance of pavement, sidewalks and surfaces of City Streets or Other City Property; provided, however, the Company shall have the right to cut, prune, and/or remove vegetation in accordance with its standard vegetation management requirements and procedures. The Company agrees to cooperate with the City in conducting inspections and shall promptly perform any remedial action lawfully required by the City pursuant to any such inspection that is consistent with Industry Standards.

(E) Compliance. Subject to the provisions of Section 3.3 above, the Company and all of its contractors shall comply with the requirements of all applicable municipal laws, ordinances, regulations, rules, permits, and standards lawfully adopted, including but not limited to requirements of all building and zoning codes, and requirements regarding curb and pavement cuts, excavating, digging, and other construction activities. The Company shall use commercially reasonable efforts to require that its contractors working in City Streets and Other City Property hold the necessary licenses and permits required by law.

(F) Increase in Voltage. The Company shall reimburse the City for the cost of upgrading the electrical system or facility of any City building or facility that uses Utility Service where such upgrading is solely caused or occasioned by the Company's decision to increase the voltage of delivered electrical energy. This provision shall not apply to voltage increases required by law, including but not limited to a final order of the PUC, or voltage increases requested by the City.

Section 6.6 As-Built Drawings.

(A) Within thirty (30) days after written request of the City designee, but no sooner than fourteen (14) days after project completion, the Company shall commence its internal process to permit the Company to provide, on a project by project basis, as-built drawings of any Company Facility installed within the City Streets or contiguous to the City Streets. The Company shall provide the requested documents no later than forty-five (45) days after it commences its internal process.

(B) If the requested information must be limited or cannot be provided pursuant to regulatory requirements or Company data privacy policies, the Company shall promptly notify the City of such restrictions. The City acknowledges that the requested as-built drawings are confidential information of the Company and the Company asserts that disclosure to members of the public would be contrary to the public interest. Accordingly, the City shall deny the right of inspection of the Company's confidential information as set forth in C.R.S. § 24-72-204(3)(a)(IV), as may be amended from time to time (the "**Open Records Act**"). If an Open Records Act request is made by any third party as-built drawings that the Company has provided to the City pursuant to this Franchise, the City will immediately notify the Company of the request and shall allow the Company to defend

such request at its sole expense, including filing a legal action in any court of competent jurisdiction to prevent disclosure of such information. In any such legal action the Company shall join the person requesting the information and the City. In no circumstance shall the City provide to any third-party as-built drawings provided by the Company pursuant to this Franchise without first conferring with the Company. Provided the City complies with the terms of this Section, the Company shall defend, indemnify and hold the City harmless from any claim, judgment, costs or attorney fees incurred in participating in such proceeding.

(C) As used in this Section 6.6, “as-built drawings” refers to hard copies of the facility drawings as maintained in the Company’s business records and shall not include information maintained in the Company’s geographical information system. The Company shall not be required to create drawings or data that do not exist at the time of the request.

Section 6.7 Excavation and Construction. Subject to Section 3.3, the Company shall be responsible for obtaining, paying for, and complying with all applicable permits, including but not limited to excavation, street closure, and street cut permits in the manner required by the laws, ordinances, and regulations of the City; the City and Company agree to satisfy any additional permit bond or deposit required of the Company or its contractors by City ordinance by separate agreement. Although the Company shall be responsible for obtaining and complying with the terms of such permits when performing Relocations requested by the City under Section 6.9 of this Franchise and undergrounding requested by the City under Article 11 of this Franchise, the City will not require the Company to pay the fees charged for such permits. Upon the Company submitting a construction design plan, the City shall promptly and fully advise the Company in writing of all requirements for the restoration of City Streets in advance of Company excavation projects in City Streets, based upon the design submitted, if the City’s restoration requirements are not addressed in publicly available standards.

Section 6.8 Restoration.

(A) Subject to the provisions of Section 6.5(D), when the Company does any work in or affecting the City Streets or Other City Property, it shall, at its own expense, promptly remove any obstructions placed thereon or therein by the Company and within a reasonable period of time, as set forth in the applicable permit subject to subparagraph (B) below, restore at the Company’s expense the affected surface of such City Streets or Other City Property to a condition that is substantially the same as existed before the work, in accordance with applicable City standards.

(B) If weather or other conditions do not permit the complete restoration required by Section 6.8(A), the Company may with the approval of the City, temporarily restore the affected City Streets or Other City Property, provided that such temporary restoration is not at the City’s expense and provided further that the Company promptly undertakes and completes the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(C) Upon the request of the City, the Company shall restore the Streets or Other City Property to a better condition than existed before the Company work was undertaken, provided that the City shall be responsible for any incremental costs of such restoration not required by then-current City standards, and provided the City seeks and/or grants, as applicable, any additional required approvals.

(D) If the Company fails to promptly restore the City Streets or Other City Property as required by this Section 6.8, and if, in the reasonable discretion of the City, immediate action is required for the protection of public health, safety or welfare, the City may restore such Streets or Other City Property or remove the obstruction therefrom; provided however, City actions do not interfere with Company Facilities. The Company shall be responsible for the actual cost incurred by the City to restore such City Streets or Other City Property or to remove any obstructions therefrom. In the course of its restoration of City Streets or Other City Property under this Section 6.8, the City shall not perform work on Company Facilities unless specifically authorized by the Company in writing on a project-by-project basis and subject to the terms and conditions agreed to in such authorization.

Section 6.9 Relocation of Company Facilities.

(A) Relocation Obligation. The Company shall Relocate any Company Facility in City Streets or in Other City Property at no cost or expense to the City whenever such Relocation is necessary for the completion of any Public Project. In the case of Relocation that is necessary for the completion of any Public Project in a Public Utility Easement that is not in a City Street or Other City Property, the Company shall not be responsible for any relocation costs. For all Relocations contemplated pursuant to this Section 6.9(A), the Company and the City agree to cooperate on the location and Relocation of the Company Facilities in the City Streets or Other City Property in order to achieve Relocation in the most efficient and cost-effective manner possible. Notwithstanding the foregoing, once the Company has completed a Relocation of any Company Facility at the City's direction, if the City requests a Relocation of the same Company Facility within two (2) years, the subsequent Relocation shall not be at the Company's expense. Nothing provided herein shall prevent the Company from recovering its Relocation costs and expenses from third-parties.

(B) Private Projects. Subject to Section 6.9(F), the Company shall not be responsible for the expenses of any Relocation required by Private Projects, and the Company has the right to require the payment of estimated Relocation expenses from the party causing, or responsible for, the Relocation before undertaking the Relocation.

(C) Relocation Performance. The Relocations set forth in Section 6.9(A) of this Franchise shall be completed within a reasonable time, not to exceed one hundred twenty (120) days from the later of the date on which the City designee requests, in writing, that the Relocation commence, or the date when the Company is provided all Supporting Documentation. The Company shall notify the City within twenty (20) days of receipt of the request if the Supporting Documentation is insufficient to complete the project. The

Company shall receive an extension of time to complete a Relocation where the Company's performance was delayed due to Force Majeure Event or the failure of the City to provide adequate Supporting Documentation. The Company has the burden of presenting evidence to reasonably demonstrate the basis for the delay. Upon written request of the Company, the City may also grant the Company reasonable extensions of time for good cause shown and the City shall not unreasonably withhold or condition any such extension.

(D) City Revision of Supporting Documentation. Any revision by the City of Supporting Documentation provided to the Company that causes the Company to substantially redesign and/or change its plans regarding Company Facility Relocation shall be deemed good cause for a reasonable extension of time to complete the Relocation under this Franchise.

(E) Completion. Each such Relocation shall be complete only when the Company actually Relocates the Company Facilities, restores the Relocation site in accordance with Section 6.9 of this Franchise or as otherwise agreed with the City, and removes from the site or properly abandons on site all unused Company Facilities, equipment, material and other impediments. "Unused" for the purposes of this Franchise shall mean the Company is no longer using the Company Facilities in question and has no plans to use the Company Facilities in the foreseeable future. Any abandonment of Company Facilities as contemplated in this section shall comply with Industry Standards.

(F) Scope of Obligation. Notwithstanding anything to the contrary in this Franchise, the Company shall not be required to Relocate any Company Facilities from property (i) owned by the Company in fee; or (ii) in which the Company has a property right, grant or interest, including without limitation an easement, but excluding Public Utility Easements, which are addressed in Section 6.9(A).

(G) Underground Relocation. The Company shall Relocate underground Company Facilities underground. The Company shall Relocate above-ground Company Facilities above ground unless the Company is paid for the incremental amount by which the underground cost would exceed the above ground cost of Relocation, or the City requests that such additional incremental cost be paid out of available funds under Article 11 of this Franchise.

(H) Coordination.

- (1) When requested in writing by the City designee or the Company, representatives of the City and the Company shall meet to share information regarding anticipated projects which will require Relocation of Company Facilities in City Streets and Other City Property. Such meetings shall be for the purpose of minimizing conflicts where possible and to facilitate coordination with any reasonable timetable established by the City for any Public Project.

- (2) The City shall make reasonable best efforts to provide the Company with one (1) year advance notice of any planned Street repaving. The Company shall make reasonable best efforts to complete any necessary or anticipated repairs or upgrades to Company Facilities that are located underneath the Streets within the one-year period if practicable.

(I) Proposed Alternatives or Modifications. Upon receipt of written notice of a required Relocation, the Company may propose an alternative to or modification of the Public Project requiring the Relocation in an effort to mitigate or avoid the impact of the required Relocation of Company Facilities. The City shall in good faith review the proposed alternative or modification. The acceptance of the proposed alternative or modification shall be at the discretion of the City. In the event the City accepts the proposed alternative or modification, the Company agrees to promptly compensate the City for all additional costs, expenses or delay that the City reasonably determines resulted from the implementation of the proposed alternative.

Section 6.10 New or Modified Service Requested by City. The conditions under which the Company shall install new or modified Utility Service to the City as a customer shall be governed by this Franchise and the Company's Tariffs.

Section 6.11 Service to New Areas. If the territorial boundaries of the City are expanded during the term of this Franchise, the Company shall, to the extent permitted by law, extend service to Residents in the expanded area at the earliest practicable time if the expanded area is within the Company's PUC-certificated service territory. Service to the expanded area shall be in accordance with the terms of the Tariffs and this Franchise, including the payment of Franchise Fees.

Section 6.12 City Not Required to Advance Funds. Upon receipt of the City's authorization for billing and construction, the Company shall install Company Facilities to provide Utility Service to the City as a customer, without requiring the City to advance funds prior to construction. The City shall pay for the installation of Company Facilities once completed in accordance with the Tariffs. Notwithstanding anything to the contrary, the provisions of this Section allowing the City to not advance funds prior to construction shall apply unless prohibited by the PUC rules or the Tariffs. The parties agree that as of the date of execution of this Agreement, Company Electric Tariff Sheets R120, R167 and R175 and Gas Tariff Sheets R36 and 39 governs the terms of installation of Company Facilities for the City and allows installation of Company Facilities without the City advancing funds prior to construction.

Section 6.13 Technological Improvements. The Company shall use its best efforts to incorporate, as soon as practicable, technological advances in its equipment and service within the City when such advances are technically and economically feasible and are safe and beneficial to the City and its Residents.

ARTICLE 7 RELIABILITY

Section 7.1 Reliability. The Company shall operate and maintain Company Facilities efficiently and economically, in accordance with Industry Standards, and in accordance with the standards, systems, methods and skills consistent with the provision of adequate, safe and reliable Utility Service.

Section 7.2 Franchise Performance Obligations. The Company recognizes that, as part of its obligations and commitments under this Franchise, the Company shall carry out each of its performance obligations in a timely, expeditious, efficient, economical and workmanlike manner.

Section 7.3 Reliability Reports. Upon written request, the Company shall provide the City with a report regarding the reliability of Company Facilities and Utility Service.

ARTICLE 8 COMPANY PERFORMANCE OBLIGATIONS

Section 8.1 New or Modified Service to City Facilities. In providing new or modified Utility Service to City facilities, the Company agrees to perform as follows:

(A) Performance. The Company shall complete each project requested by the City within a reasonable time. Other than traffic facilities, where the Company's performance obligations are governed by Tariff, the parties agree that a reasonable time shall not exceed one hundred eighty (180) days from the date upon which the City designee makes a written request and provides the required Supporting Documentation for all Company Facilities other than traffic facilities, including a copy to the Area Manager as designated in Section 21.4 below. Provided that the City provides the Company's designated representative with a copy of the Supporting Documentation, the Company shall notify the City within twenty (20) days of receipt of the request if the Supporting Documentation is sufficient to complete the project. The Company shall be entitled to an extension of time to complete a project where the Company's performance was delayed due to Force Majeure. Upon request of the Company, the City designee may also grant the Company reasonable extensions of time for good cause shown and the City shall not unreasonably withhold any such extension.

(B) City Revision of Supporting Documentation. Any revision by the City of Supporting Documentation provided to the Company that causes the Company to substantially redesign and/or substantially change its plans regarding new or modified service to City facilities shall be deemed good cause for a reasonable extension of time to complete the Relocation under this Franchise.

(C) Completion/Restoration. Each such project shall be complete only when the Company actually provides the service installation or modification required, restores the project site in accordance with the terms of this Franchise or as otherwise agreed with the City and properly abandons on site any unused Company Facilities, equipment, material and other impediments.

Section 8.2 Adjustments to Company Facilities. The Company shall perform adjustments to Company Facilities that are consistent with Industry Standards, including manhole rings and other appurtenances in Streets and Other City Property, to accommodate City Street maintenance, repair and paving operations at no cost to the City. In providing such adjustments to Company Facilities, the Company agrees to perform as follows:

(A) Performance. The Company shall complete each requested adjustment within a reasonable time, not to exceed thirty (30) days from the date upon which the City makes a written request and provides to the Company all information reasonably necessary to perform the adjustment. The Company shall be entitled to an extension of time to complete an adjustment where the Company's performance was delayed due to a Force Majeure Event. Upon request of the Company, the City may also grant the Company reasonable extensions of time for good cause shown and the City shall not unreasonably withhold any such extension.

(B) Completion/Restoration. Each such adjustment shall be complete only when the Company actually adjusts and, if required, readjusts, Company Facilities to accommodate City operations in accordance with City instructions following City street maintenance, repair, or paving operations.

(C) Coordination. As requested by the City or the Company, representatives of the City and the Company shall meet regarding anticipated Street maintenance operations which will require such adjustments to Company Facilities in Streets or Other City Property. Such meetings shall be for the purpose of coordinating and facilitating performance under this Section.

Section 8.3 Third Party Damage Recovery.

(A) Damage to Company Facilities. If any individual or entity damages any Company Facilities, to the extent permitted by law the City will notify the Company of any such incident of which it has knowledge and will provide to the Company within a reasonable time all pertinent information within its possession regarding the incident and the damage, including the identity of the responsible individual or entity.

(B) Damage to Company Facilities for which the City is Responsible. If any individual or entity damages any Company Facilities for which the City is obligated to reimburse the Company for the cost of the repair or replacement of the damaged facilities, to the extent permitted by law, the Company will notify the City of any such incident of which it has knowledge and will provide to the City within a reasonable time all pertinent information within its possession regarding the incident and the damage, including the identity of the responsible individual or entity.

(C) Meeting. The Company and the City agree to meet periodically upon written request of either party for the purpose of developing, implementing, reviewing, improving and/or modifying mutually beneficial procedures and methods for the efficient gathering

and transmittal of information useful in recovery efforts against third-parties for damaging Company Facilities.

ARTICLE 9 BILLING AND PAYMENT

Section 9.1 Billing for Utility Services.

(A) Monthly Billing. Unless otherwise provided in the Tariffs, the rules and regulations of the PUC, or the Public Utility Law, the Company shall render bills monthly to the offices of the City for Utility Service and other related services for which the Company is entitled to payment.

(B) Address for Billing. Billings for service rendered during the preceding month shall be sent to the person(s) designated by the City and payment for same shall be made as prescribed in this Franchise and the applicable Tariffs.

(C) Supporting Documents. To the extent requested by the City, the Company shall provide all billings and any underlying Supporting Documentation reasonably requested by the City in an editable and manipulatable electronic format that is acceptable to the Company and the City.

(D) Annual Meetings. The Company agrees to meet with the City designee at least annually for the purpose of developing, implementing, reviewing, and/or modifying mutually beneficial and acceptable billing procedures, methods, and formats which may include, without limitation, electronic billing and upgrades or beneficial alternatives to the Company's current most advanced billing technology, for the efficient and cost effective rendering and processing of such billings submitted by the Company to the City.

(E) Payment to City In the event the City determines after written notice to the Company that the Company is liable to the City for payments, costs, expenses or damages of any nature, and subject to the Company's right to challenge such determination, the City may deduct all monies due and owing the City from any other amounts currently due and owing the Company. Upon receipt of such written notice, the Company may request a meeting between the Company's designee and a designee of the City to discuss such determination. The City agrees to attend such a meeting. As an alternative to such deduction and subject to the Company's right to challenge, the City may bill the Company for such assessment(s), in which case, the Company shall pay each such bill within thirty (30) days of the date of receipt of such bill unless it challenges the validity of the charge. If the Company challenges the City determination of liability, the City shall make such payments to the Company for Utility Service received by City pursuant to the Tariffs until the challenge has been finally resolved.

ARTICLE 10

USE OF COMPANY ELECTRIC DISTRIBUTION POLES

Section 10.1 City Use of Company Electric Distribution Poles. The City shall be permitted to make use of Company electric distribution poles in the City, subject to the Tariffs, without a use fee for the placement of City equipment or facilities necessary to serve a legitimate police, fire, emergency, public safety or traffic control purpose. The City shall notify the Company in advance and in writing of its intent to use Company's electric distribution poles, and the nature of such use. The City shall be responsible for all costs incurred by the Company associated with such use by the City, including but not limited to reviews, inspections and modifications of Company electric distribution poles to accommodate the City's use of such Company electric distribution poles and for any electricity used. The City shall not install any equipment or facilities without the express written consent and approval of the Company. No such use of Company electric distribution poles may occur if it would constitute a safety hazard or would interfere with the Company's use or use by any other authorized entity of Company Facilities. Any such City use must comply with the Company's specifications, the National Electric Safety Code, Industry Standards and all other applicable laws, rules and regulations.

Section 10.2 Third Party Use of Company Electric Distribution Poles. If requested in writing by the City, the Company may allow other companies who hold franchises, or otherwise have obtained consent from the City to use the Streets, Other City Property, and Public Utility Easements, to utilize Company electric distribution poles in City Streets, Other City Property, and Public Utility Easements, subject to the Tariffs, for the placement of their facilities upon approval by the Company and agreement upon reasonable terms and conditions, including payment of fees established by the Company. No such use shall be permitted if it would constitute a safety hazard or would interfere with the Company's use of Company Facilities. The Company shall not be required to permit the use of Company electric distribution poles for the provision of utility service except as otherwise required by law.

Section 10.3 City Use of Company Transmission Rights-of-Way. The Company shall offer to grant to the City use of transmission rights-of-way which it now, or in the future, owns in fee within the City for trails, parks and open space on terms comparable to those offered to other municipalities; provided, however, that the Company shall not be required to make such an offer in any circumstance where such use would constitute a safety hazard or would interfere with the Company's use of the transmission right-of-way. In order to exercise this right, the City must make specific, advance written request to the Company for any such use and must enter such written agreements as the Company may reasonably require.

Section 10.4 Emergencies. Upon written request, the Company shall assist the City in developing an emergency management plan that is consistent with Company policies. The City and the Company shall work cooperatively with each other in any emergency or disaster situation to address the emergency or disaster.

ARTICLE 11

UNDERGROUNDING OF OVERHEAD ELECTRIC DISTRIBUTION LINES

Section 11.1 Underground Electrical Lines in New Areas. Upon payment to the Company of the charges provided in the Tariffs or their equivalent, the Company shall place all newly constructed electrical distribution lines in newly developed areas of the City underground in accordance with applicable laws, regulations and orders of the City. Such underground construction shall be consistent with Industry Standards.

Section 11.2 Underground Conversion at Expense of Company.

(A) Underground Conversion Program. The Company shall budget and allocate an annual amount, equivalent to one percent (1%) of the preceding year's Electric Gross Revenues, for the purpose of undergrounding its existing overhead electric distribution lines in the City Streets (excluding alleys and access easements) and Other City Property, as may be requested by the City Designee (the "Underground Program"), so long as the underground conversion does not result in end use customers of the Company incurring any costs related to the conversion and does not require the Company to obtain any additional land use rights. If the City requires Relocation of overhead electric distribution lines in the Streets and Other City Property and there is no room to relocate the lines overhead, the Company may relocate the Facilities underground and may charge the cost of undergrounding to the Underground Program.

(B) Unexpended Portion and Advances. Any unexpended portion of the Underground Program shall be carried over to succeeding years and, in addition, upon request by the City, the Company agrees to advance and expend amounts anticipated to be available under the preceding paragraph for up to three (3) years in advance provided there are at least three (3) years remaining before the expiration or termination of this Franchise. During the last three (3) years of this Franchise Agreement, upon request by the City, the Company may advance and expend amounts anticipated to be available during the remaining term of this Franchise Agreement under the preceding paragraph on a project by project basis in the Company's sole discretion. Any amounts so advanced shall be credited against amounts to be expended in succeeding years. Any funds left accumulated in the Underground Program under any prior franchise shall be carried over to this Franchise. Notwithstanding the foregoing, the City shall have no vested interest in monies allocated to the Underground Program and any monies in the Underground Program not expended at the expiration or termination of this Franchise shall remain the property of the Company. At the expiration or termination of this Franchise, the Company shall not be required to underground any existing overhead electric distribution lines pursuant to this Article, but may do so in its sole discretion.

(C) System-wide Undergrounding. If, during the term of this Franchise, the Company should receive authority from the PUC to undertake a system-wide program or programs of undergrounding its electric distribution lines system wide, the Company will budget and allocate to the program of undergrounding in the City such amount as may be determined

and approved by the PUC, but in no case shall such amount be less than the one percent (1%) of annual Electric Gross Revenues provided above.

(D) City Requirement to Underground. In addition to the provisions of this Article, the City may require any above ground Company lines in Streets and Other City Property to be moved underground at the City's expense.

Section 11.3 Undergrounding Performance. Upon receipt of a written request from the City, the Company shall underground Company electric distribution lines pursuant to the provisions of this Article 11, in accordance with the procedures set forth in this Section.

(A) Estimates. Promptly upon receipt of an undergrounding request from the City and the Supporting Documentation necessary for the Company to design the undergrounding project, including a copy to the Area Manager as designated in Section 21.4 below, the Company shall prepare a detailed, good faith cost estimate of the anticipated actual cost of the requested project for the City to review and, if acceptable to the City, the City will issue a project authorization. The Company shall notify the City within twenty (20) days of receipt of the request if the Supporting Documentation is insufficient to prepare the cost estimate for the project. The City and the Company agree to meet upon the request of either party during the period when the Company is preparing its estimate to discuss all aspects of the project toward the goal of enabling the Company to prepare an accurate cost estimate. At the City's request, the Company will provide all documentation that forms the basis of the estimate that is not proprietary. The Company will not proceed with any requested project until the City has provided a written acceptance of the Company's estimate.

(B) Performance. The Company shall complete each undergrounding project requested by the City within a reasonable time considering the size and scope of each project, not to exceed two hundred forty (240) days from the later of the date upon which the City designee makes a written request or the date the City provides to the Company all Supporting Documentation. The Company shall have one hundred twenty (120) days after receiving the City's written request to design project plans, prepare the good faith estimate, and transmit same to the City designee for review. If City approval of the plans and estimate has not been granted, the Company's good faith estimate will be void sixty (60) days after delivery of the plans and estimate to the City designee. If the plans and estimate are approved by the City, the Company shall have one hundred twenty (120) days to complete the project, from the date of the City designee's authorization of the underground project, plus any of the one hundred twenty (120) unused days in preparing the good faith estimate. At the Company's sole discretion, if the good faith estimate has expired because the City designee has not approved the same within sixty (60) days, the Company may extend the good faith estimate or prepare a new estimate using current prices. The Company shall be entitled to an extension of time to complete each undergrounding project where the Company's performance was delayed due to a Force Majeure Event. Upon written request of the Company, the City may also grant the Company reasonable extensions of time for good cause shown and the City shall not unreasonably withhold any such extension.

(C) City Revision of Supporting Documentation. Any revision by the City of Supporting Documentation provided to the Company that causes the Company to substantially redesign and/or change its plans regarding an undergrounding project shall be deemed good cause for a reasonable extension of time to complete the undergrounding project under this Franchise.

(D) Completion/Restoration. Each such undergrounding project undertaken pursuant to this Article shall be complete only when the Company actually undergrounds the designated Company Facilities and restores the undergrounding site in accordance with Section 6.7 of this Franchise, or as otherwise agreed with the City. When performing underground conversions of overhead lines, the Company shall make reasonable efforts consistent with its contractual obligations to persuade joint users of Company distribution poles to remove their facilities from such poles within the time allowed by this Article.

(E) Report of Actual Costs. Upon completion of each undergrounding project undertaken pursuant to this Article, the Company shall submit to the City a detailed report of the Company's actual cost to complete the project and the Company shall reconcile this total actual cost with the accepted cost estimate. The report shall be provided within one hundred twenty (120) days after completion of the project and written request from the City.

(F) Audit of Underground Projects. The City may require the Company to undertake an independent audit of up to two (2) undergrounding projects in any calendar year. The City shall make any such request in writing within one hundred twenty (120) days of receipt of the report of actual costs, as referenced in Section 11.3(E) of this Franchise Agreement. Such audits shall be limited to projects completed within twelve (12) months prior to the date when the audit is requested. The cost of any such independent audit shall reduce the amount of the Underground Program balance. The Company shall cooperate with any audit and the independent auditor shall prepare and provide to the City and the Company a final audit report showing the actual costs associated with completion of the project. If a project audit is required by the City, only those actual project costs confirmed and verified by the independent auditor as reasonable and necessary to complete the project shall be charged against the Underground Program balance.

Section 11.4 Audit of Underground Program. Upon written request, every three (3) years commencing at the end of the third year of this Franchise, the Company shall cause an independent auditor to investigate and determine the correctness of the charges to the Underground Program. Such audits shall be limited to the previous three (3) calendar years. Audits performed pursuant to this Section shall be limited to charges to the Underground Program and shall not include an audit of individual underground projects. If the City has concerns about any material information contained in the audit, the parties shall meet and make good faith attempts to resolve any outstanding issues. The independent auditor shall provide to the City and the Company a written report containing its findings. The Company shall reconcile the Underground Program balance consistent with the findings contained in the independent auditor's written report. The costs of the audit and investigation shall be charged against the Underground Program balance.

Section 11.5 Cooperation with Other Utilities. When undertaking an undergrounding project, the City and the Company shall coordinate with other utilities or companies that have their facilities above ground to attempt to have all facilities undergrounded as part of the same project. When other utilities or companies are placing their facilities underground, to the extent the Company has received prior written notification, the Company shall cooperate with these utilities and companies and undertake to underground Company facilities as part of the same project where financially, technically and operationally feasible. The Company shall not be required to pay for any costs of undergrounding the facilities of other companies or the City.

Section 11.6 Planning and Coordination of Undergrounding Projects. The City and the Company shall mutually plan in advance the scheduling of undergrounding projects to be undertaken according to this Article as a part of the review and planning for other City and Company construction projects. The City and the Company agree to meet, as required, to review the progress of the current undergrounding projects and to review planned future undergrounding projects. The purpose of such meetings shall be to further cooperation between the City and the Company in order to achieve the orderly undergrounding of Company overhead lines. Representatives of both the City and the Company shall meet periodically to review the Company's undergrounding of Company overhead lines and at such meetings shall review:

- (A) Undergrounding, including conversions, Public Projects and replacements that have been accomplished or are underway, together with the Company's plans for additional undergrounding; and
- (B) Public Projects anticipated by the City.

ARTICLE 12 PURCHASE OR CONDEMNATION

Section 12.1 Municipal Right to Purchase or Condemn.

(A) **Right and Privilege of City.** The right and privilege of the City to construct, own and operate a municipal utility, and to purchase pursuant to a mutually acceptable agreement or condemn any Company Facilities located within the territorial boundaries of the City, and the Company's rights in connection therewith, as set forth in applicable provisions of the constitution, statutes and case law of the State of Colorado relating to the acquisition of public utilities, are expressly recognized. The City shall have the right, within the time frames and in accordance with the procedures set forth in such provisions, to condemn Company Facilities, land, rights-of-way and easements now owned or to be owned by the Company located within the territorial boundaries of the City. In the event of any such condemnation, no value shall be ascribed or given to the right to use City Streets or Other City Property granted under this Franchise in the valuation of the property thus condemned.

(B) **Notice of Intent to Purchase or Condemn.** The City shall provide the Company no less than one (1) year's prior written notice of its intent to purchase or condemn Company Facilities. Nothing in this Section 12.1 shall be deemed or construed to constitute a consent

by the Company to the City's purchase or condemnation of Company Facilities, nor a waiver of any Company defenses or challenges related thereto.

ARTICLE 13

MUNICIPALLY PRODUCED UTILITY SERVICE

Section 13.1 Municipally Produced Utility Service.

(A) City Reservation. The City expressly reserves the right to engage in the production of utility service to the extent permitted by law. The Company agrees to negotiate in good faith long term contracts to purchase City-generated power made available for sale, consistent with PUC requirements and other applicable requirements. The Company further agrees to offer transmission and delivery services to the City that are required by judicial, statutory and/or regulatory directive and that are comparable to the services offered to any other customer with similar generation facilities.

(B) Franchise Not to Limit City's or Company's Rights. Nothing in this Franchise prohibits the City from becoming an aggregator of utility service or from selling utility service to customers should it be permissible under law, nor does it affect the Company's rights and obligations pursuant to any Certificate of Public Convenience and Necessity granted by the PUC.

ARTICLE 14

ENVIRONMENT AND CONSERVATION

Section 14.1 Environmental Leadership. The City and the Company agree that sustainable development, environmental excellence and innovation shall form the foundation of the Utility Service provided by the Company under this Franchise. The Company agrees to continue to actively pursue reduction of carbon emissions attributable to its electric generation facilities with a rigorous combination of Energy Conservation and Energy Efficiency measures, Clean Energy measures, and promoting and implementing the use of Renewable Energy Resources on both a distributed and centralized basis. The Company shall continue to cost-effectively monitor its operations to mitigate environmental impacts; shall meet the requirements of environmental laws, regulations and permits; shall invest in cost-effective, environmentally sound technologies; shall consider environmental issues in its planning and decision making; and shall support environmental research and development projects and partnerships in our communities through various means, including but not limited to corporate giving and employee involvement. The Company shall continue to explore ways to reduce water consumption at its facilities and to use recycled water where feasible. The Company shall continue to work with the U.S. Fish and Wildlife Service to develop and implement avian protection plans to reduce electrocution and collision risks by eagles, raptors and other migratory birds with transmission and distribution lines. If requested in writing by the City on or before December 1st of each year, the Company shall provide the City a written report describing its progress in carbon reduction and other environmental efforts, and the parties shall meet at a mutually convenient time and place for a discussion of such. In meeting its obligation under this Section, the Company is not precluded

from providing existing internal and external reports that may be used for other reporting requirements.

Section 14.1 Conservation. The City and the Company recognize and agree that Energy Conservation programs offer opportunities for the efficient use of energy and possible reduction of energy costs. The City and the Company further recognize that creative and effective Energy Conservation solutions are crucial to sustainable development. The Company recognizes and shares the City's stated objectives to advance the implementation of cost-effective Energy Efficiency and Energy Conservation programs that direct opportunities to Residents to manage more efficiently their use of energy and thereby create the opportunity to reduce their energy bills. The Company commits to offer programs that attempt to capture market opportunities for cost-effective Energy Efficiency improvements such as municipal specific programs that provide cash rebates for efficient lighting, energy design programs to assist architects and engineers to incorporate Energy Efficiency in new construction projects, and recommissioning programs to analyze existing systems to optimize performance and conserve energy according to current and future demand side management ("DSM") programs. In doing so, the Company recognizes the importance of (i) implementing cost-effective programs, the benefits of which would otherwise be lost if not pursued in a timely fashion; and (ii) developing cost-effective programs for the various classes of the Company's customers, including low-income customers. The Company shall advise the City and its Residents of the availability of assistance that the Company makes available for investments in Energy Conservation through newspaper advertisements, bill inserts and Energy Efficiency workshops and by maintaining information about these programs on the Company's website. Further, at the City's request, the Company's Area Manager shall act as the primary liaison with the City who will provide the City with information on how the City may take advantage of reducing energy consumption in City facilities and how the City may participate in Energy Conservation and Energy Efficiency programs sponsored by the Company. As such, the Company and the City commit to work cooperatively and collaboratively to identify, develop, implement and support programs offering creative and sustainable opportunities to Company customers and Residents, including low-income customers. The Company agrees to help the City participate in Company programs and, when opportunities exist to partner with others, such as the State of Colorado, the Company will help the City pursue those opportunities. In addition, and in order to assist the City and its Residents' participation in Renewable Energy Resource programs, the Company shall: notify the City regarding eligible Renewable Energy Resource programs; provide the City with technical support regarding how the City may participate in Renewable Energy Resource programs; and advise Residents regarding eligible Renewable Energy Resource programs. Notwithstanding the foregoing, to the extent that any Company assistance is needed to support Renewable Energy Resource Programs that are solely for the benefit of Company customers located within the City, the Company retains the sole discretion as to whether to incur such costs.

Section 14.2 Continuing Commitment. It is the express intention of the City and the Company that the collaborative effort provided for in this Article continue for the entire term of this Franchise. The City and the Company also recognize, however, that the programs identified in this Article 14 may be for a limited duration and that the regulations and technologies associated with Energy Conservation are subject to change. Given this variability, the Company agrees to maintain its commitment to sustainable development and Energy Conservation for the term of this

Franchise by continuing to provide leadership, support and assistance, in collaboration with the City, to identify, develop, implement and maintain new and creative programs similar to the programs identified in this Franchise in order to help the City achieve its environmental goals.

Section 14.3 PUC Approval. Nothing in this Article shall be deemed to require the Company to invest in technologies or to incur costs that it has a good faith belief the PUC will not allow the Company to recover through the ratemaking process.

Section 14.4 Sustainability Committee. To the extent the City has a sustainability committee, it shall provide the Company an opportunity to have a Company representative on such committee. Any Company representative may participate in regular committee meetings for the purpose of providing information on Company programs and offerings and will be a meaningful participant as it relates to Company programs and offerings.

ARTICLE 15 TRANSFER OF FRANCHISE

Section 15.1 Consent of City Required. The Company shall not transfer or assign any rights under this Franchise to an unaffiliated third party, except by merger with such third party, or, except when the transfer is made in response to legislation or regulatory requirements, unless the City approves such transfer or assignment in writing. The City may impose reasonable conditions upon the transfer, but approval of the transfer or assignment shall not be unreasonably withheld, conditioned or delayed.

Section 15.2 Transfer Fee. In order that the City may share in the value this Franchise adds to the Company's operations, any transfer or assignment of rights granted under this Franchise requiring City approval, as set forth herein, shall be subject to the condition that the Company shall promptly pay to the City a transfer fee in an amount equal to the proportion of the City's then-population provided Utility Service by the Company to the then-population of the City and County of Denver provided Utility Service by the Company multiplied by one million dollars (\$1,000,000.00). Except as otherwise required by law, such transfer fee shall not be recovered from a surcharge placed only on the rates of Residents.

ARTICLE 16 CONTINUATION OF UTILITY SERVICE

Section 16.1 Continuation of Utility Service. In the event this Franchise is not renewed at the expiration of its term or is terminated for any reason, and the City has not provided for alternative utility service, the Company shall have no obligation to remove any Company Facilities from Streets, Public Utility Easements or Other City Property or discontinue providing Utility Service unless otherwise ordered by the PUC, and shall continue to provide Utility Service within the City until the City arranges for utility service from another provider. The City acknowledges and agrees that the Company has the right to use Streets, Other City Property and Public Utility Easements during any such period. The Company further agrees that it will not withhold any temporary Utility Services necessary to protect the public.

Section 16.2 Compensation. The City agrees that in the circumstances of this Article 16, the Company shall be entitled to monetary compensation as provided in the Tariffs and the Company shall be entitled to collect from Residents and, upon the City's compliance with applicable provisions of law, shall be obligated to pay the City, at the same times and in the same manner as provided in this Franchise, an aggregate amount equal to the amount which the Company would have paid as a Franchise Fee as consideration for use of the City's Streets and Other City Property. Only upon receipt of written notice from the City stating that the City has adequate alternative utility service for Residents and upon order of the PUC shall the Company be allowed to discontinue the provision of Utility Service to the City and its Residents.

ARTICLE 17 INDEMNIFICATION AND IMMUNITY

Section 17.1 City Held Harmless. The Company shall indemnify, defend and hold the City harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account of or directly arising from the grant of this Franchise, the exercise by the Company of the related rights, but in both instances only to the extent caused by the Company, and shall pay the costs of defense plus reasonable attorneys' fees. The City shall (a) give prompt written notice to the Company of any claim, demand or lien with respect to which the City seeks indemnification hereunder; and, (b) unless in the City's judgment a conflict of interest may exist between the City and the Company with respect to such claim, demand or lien, shall permit the Company to assume the defense of such claim, demand, or lien with counsel reasonably satisfactory to the City. If such defense is assumed by the Company, the Company shall not be subject to liability for any settlement made without its consent. If such defense is not assumed by the Company or if the City determines that a conflict of interest exists, the parties reserve all rights to seek all remedies available in this Franchise against each other. Notwithstanding any provision hereof to the contrary, the Company shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or intentional act or failure to act of the City or any of its officers, agents or employees or to the extent that the City is acting in its capacity as a customer of record of the Company.

Section 17.2 Governmental Immunity Act. Nothing in this Article 17 or any other provision of this Franchise shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the City may have under the Colorado Governmental Immunity Act (C.R.S. § 24-10-101, *et. seq.*) or of any other defenses, immunities, or limitations of liability available to the City by law.

ARTICLE 18 BREACH

Section 18.1 Change of Tariffs. The City and the Company agree to take all reasonable and necessary actions to assure that the terms of this Franchise are performed. The Company reserves the right to seek a change in its Tariffs, including but not limited to the rates, charges, terms, and conditions of providing Utility Service to the City and its Residents, and the City retains all rights that it may have to intervene and participate in any such proceedings.

Section 18.2 Breach.

(A) Notice/Cure/Remedies. Except as otherwise provided in this Franchise, if a party (the “**Breaching Party**”) to this Franchise fails or refuses to perform any of the terms or conditions of this Franchise (a “**Breach**”), the other party (the “**Non-Breaching Party**”) may provide written notice to the Breaching Party of such Breach. Upon receipt of such notice, the Breaching Party shall be given a reasonable time, not to exceed thirty (30) days, in which to remedy the Breach or, if such Breach cannot be remedied in thirty (30) days, such additional time as reasonably needed to remedy the Breach, but not exceeding an additional thirty (30) day period, or such other time as the parties may agree. If the Breaching Party does not remedy the Breach within the time allowed in the notice, the Non-Breaching Party may exercise the following remedies for such Breach:

- (1) specific performance of the applicable term or condition to the extent allowed by law; and
- (2) recovery of actual damages from the date of such Breach incurred by the Non-Breaching Party in connection with the Breach, but excluding any special, punitive or consequential damages.

(B) Termination of Franchise by City. In addition to the foregoing remedies, if the Company fails or refuses to perform any material term or condition of this Franchise (a “**Material Breach**”), the City may provide written notice to the Company of such Material Breach. Upon receipt of such notice, the Company shall be given a reasonable time, not to exceed sixty (60) days in which to remedy the Material Breach or, if such Material Breach cannot be remedied in sixty (60) days, such additional time as reasonably needed to remedy the Material Breach, but not exceeding an additional sixty (60) day period, or such other time as the parties may agree. If the Company does not remedy the Material Breach within the time allowed in the notice, the City may, in its sole discretion, terminate this Franchise. This remedy shall be in addition to the City’s right to exercise any of the remedies provided for elsewhere in this Franchise. In the event of the termination of this Franchise by the City pursuant to this Section 18.2(B), the Company shall continue to provide Utility Service to the City and its Residents in accordance with Article 16 above.

(C) Company Shall Not Terminate Franchise. In no event does the Company have the right to terminate this Franchise.

(D) No Limitation. Except as provided herein, nothing in this Franchise shall limit or restrict any legal rights or remedies that either party may possess arising from any alleged Breach of this Franchise.

ARTICLE 19 AMENDMENTS

Section 19.1 Proposed Amendments. At any time during the term of this Franchise, the City or the Company may propose amendments to this Franchise by giving thirty (30) days written

notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). However, nothing contained in this Section shall be deemed to require either party to consent to any amendment proposed by the other party.

Section 19.2 Effective Amendments. No alterations, amendments or modifications to this Franchise shall be valid unless executed in writing by the parties, which alterations, amendments or modifications shall be adopted with the same formality used in adopting this Franchise, to the extent required by law. Neither this Franchise, nor any term herein, may be changed, modified or abandoned, in whole or in part, except by an instrument in writing, and no subsequent oral agreement shall have any validity whatsoever. Any amendment of the Franchise shall become effective only upon the approval of the PUC, if such PUC approval is required.

ARTICLE 20 EQUAL OPPORTUNITY

Section 20.1 Economic Development. The Company is committed to the principle of stimulating, cultivating and strengthening the participation and representation of persons of color, women and members of other under-represented groups within the Company and in the local business community. The Company believes that increased participation and representation of under-represented groups will lead to mutual and sustainable benefits for the local economy. The Company is committed also to the principle that the success and economic well-being of the Company is closely tied to the economic strength and vitality of the diverse communities and people it serves. The Company believes that contributing to the development of a viable and sustainable economic base among all Company customers is in the best interests of the Company and its shareholders.

Section 20.2 Employment.

(A) **Programs.** The Company is committed to undertaking programs that identify, consider and develop persons of color, women and members of other under-represented groups for positions at all skill and management levels within the Company.

(B) **Businesses.** The Company recognizes that the City and the business community in the City, including women and minority owned businesses, provide a valuable resource in assisting the Company to develop programs to promote persons of color, women and members of under-represented communities into management positions, and agrees to keep the City regularly advised of the Company's progress by providing the City a copy of the Company's annual affirmative action report upon the City's written request.

(C) **Recruitment.** In order to enhance the diversity of the employees of the Company, the Company is committed to recruiting diverse employees by strategies such as partnering with colleges, universities and technical schools with diverse student populations, utilizing diversity-specific media to advertise employment opportunities, internships, and engaging recruiting firms with diversity-specific expertise.

(D) Advancement. The Company is committed to developing a world-class workforce through the advancement of its employees, including persons of color, women and members of under-represented groups. In order to enhance opportunities for advancement, the Company will offer training and development opportunities for its employees. Such programs may include mentoring programs, training programs, classroom training and leadership programs.

(E) Non-Discrimination. The Company is committed to a workplace free of discrimination based on race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability or any other protected status in accordance with all federal, state or local laws. The Company shall not, solely because of race, creed, color, religion, gender, sexual orientation, marital status, age, military status, national origin, ancestry, or physical or mental disability, refuse to hire, discharge, promote, demote or discriminate in matters of compensation, against any person otherwise qualified.

(F) Board of Directors. The Company shall identify and consider women, persons of color and other under-represented groups to recommend for its Board of Directors, consistent with the responsibility of boards to represent the interests of the Shareholders, customers and employees of the Company.

Section 20.3 Contracting.

(A) Contracts. It is the Company's policy to make available to minority and women owned business enterprises and other small and/or disadvantaged business enterprises the maximum practical opportunity to compete with other service providers, contractors, vendors and suppliers in the marketplace. The Company is committed to increasing the proportion of Company contracts awarded to minority and women owned business enterprises and other small and/or disadvantaged business enterprises for services, construction, equipment and supplies to the maximum extent consistent with the efficient and economical operation of the Company.

(B) Community Outreach. The Company agrees to maintain and continuously develop contracting and community outreach programs calculated to enhance opportunity and increase the participation of minority and women owned business enterprises and other small and/or disadvantaged business enterprises to encourage economic vitality. The Company agrees to keep the City regularly advised of the Company's programs.

(C) Community Development. The Company shall maintain and support partnerships with local chambers of commerce and business organizations, including those representing predominately minority owned, women owned and disadvantaged businesses, to preserve and strengthen open communication channels and enhance opportunities for minority owned, women owned and disadvantaged businesses to contract with the Company.

Section 20.4 Coordination. City agencies provide collaborative leadership and mutual opportunities or programs relating to City based initiatives on economic development,

employment and contracting opportunity. The Company agrees to review Company programs and mutual opportunities responsive to this Article with these agencies, upon their request, and to collaborate on best practices regarding such programs and coordinate and cooperate with the agencies in program implementation.

ARTICLE 21 MISCELLANEOUS

Section 21.1 No Waiver. Neither the City nor the Company shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions, to insist upon or to seek compliance with any such terms and conditions.

Section 21.2 Successors and Assigns. The rights, privileges, and obligations, in whole or in part, granted and contained in this Franchise shall inure to the benefit of and be binding upon the Company, its successors and assigns, to the extent that such successors or assigns have succeeded to or been assigned the rights of the Company pursuant to Article 15 of this Franchise. Upon a transfer or assignment pursuant to Article 15, the Company shall be relieved from all liability from and after the date of such transfer, except as otherwise provided in the conditions imposed by the City in authorizing the transfer or assignment and under state and federal law.

Section 21.3 Third Parties. Nothing contained in this Franchise shall be construed to provide rights to third parties.

Section 21.4 Notice. Both parties shall designate from time to time in writing representatives for the Company and the City who will be the persons to whom notices shall be sent regarding any action to be taken under this Franchise. Notice shall be in writing and forwarded by certified mail, reputable overnight courier or hand delivery to the persons and addresses as hereinafter stated, unless the persons and addresses are changed at the written request of either party, delivered in person or by certified mail. Notice shall be deemed received (a) three (3) days after being mailed via the U.S. Postal Service, (b) one (1) business day after mailed if via reputable overnight courier, or (c) upon hand delivery if delivered by courier. Until any such change shall hereafter be made, notices shall be sent as follows:

To the City:

City Clerk
City of Rifle
202 Railroad Ave
Rifle, Colorado 81650

With a copy to:

City Attorney
Karp Neu Hanlon P.C.
P.O. Drawer 2030
Glenwood Springs, Colorado 81602

To the Company: Regional Vice President, State Affairs and Community
Relations
Public Service Company of Colorado
P.O. Box 840
Denver, Colorado 80201

With a copy to: Legal Department
Public Service Company of Colorado
P.O. Box 840
Denver, Colorado 80201

and Area Manager
Public Service Company of Colorado
P.O. Box 840
Denver, Colorado 80201

Any request involving any audit specifically allowed under this Franchise shall also be sent to:

Audit Services
Public Service Company of Colorado
P.O. Box 840
Denver, Colorado 80201

Section 21.5 Examination of Records.

(A) The parties agree that any duly authorized representative of the City and the Company shall have access to and the right to examine any directly pertinent non-confidential books, documents, papers, and records of the other party involving any activities related to this Franchise. All such records must be kept for a minimum of the lesser of four (4) years or the time period permitted by a party's record retention policy. To the extent that either party believes in good faith that it is necessary in order to monitor compliance with the terms of this Franchise to examine confidential books, documents, papers, and records of the other party, the parties agree to meet and discuss providing confidential materials, including without limitation providing such materials subject to a reasonable confidentiality agreement that effectively protects the confidentiality of such materials and complies with PUC rules and regulations.

(B) With respect to any information requested by the City which the Company identifies as "Confidential" or "Proprietary":

- (1) The City will maintain the confidentiality of the information by keeping it under seal and segregated from information and documents that are available to the public;
- (2) The information will be used solely for the purposes stated in the City's request;

- (3) The information shall only be made available to City employees and consultants who represent in writing that they agree to be bound by the provisions of this subsection; and
- (4) The information shall be held by the City for such time as is reasonably necessary for the City to address the Franchise issue(s) that generated the request and shall be returned to the Company when the City has concluded its use of the information. The parties agree that in most cases, the information should be returned within one hundred twenty (120) days. However, in the event that the information is needed in connection with any action that requires more time, including, but not necessarily limited to litigation, administrative proceedings and/or other disputes, the City may maintain the information until such issues are fully and finally concluded.

Section 21.6 Confidential or Proprietary Information. If an Open Records Act (C.R.S. § 24-72-201 *et seq.*) request is made by any third-party for confidential or proprietary information that the Company has provided to the City pursuant to this Franchise, the City will promptly notify the Company of the request and shall allow the Company to defend such request at its sole expense, including filing a legal action in any court of competent jurisdiction to prevent disclosure of such information. In any such legal action the Company shall join the person requesting the information and the City. In no circumstance shall the City provide to any third-party confidential information provided by the Company pursuant to this Franchise without first conferring with the Company. Unless otherwise agreed between the parties, the following information shall not be provided by the Company: confidential employment matters, specific information regarding any of the Company's customers, information related to the compromise and settlement of disputed claims including but not limited to PUC dockets, information provided to the Company which is declared by the provider to be confidential and which would be considered confidential to the provider under applicable law. If the Company requests that the City not disclose confidential information pursuant to an Open Records Act request, the Company agrees that it will indemnify, hold harmless, and defend the City for the decision not to disclose such confidential information.

Section 21.7 List of Utility Property. Upon written request by the City, but in no event more than once every two (2) years, the Company shall provide the City a list of electric utility-related real property owned in fee by the Company within the County in which the City is located. The list shall include the legal description of the real property, and where available on the deed, the physical street address. If the physical address is not available on the deed, if the City requests the physical address of the real property described in this Section 21.7, to the extent that such physical street address is readily available to the Company, the Company shall provide such address to the City. All such records must be kept for a minimum of three (3) years or such shorter duration if required by Company policy.

Section 21.8 PUC Filings. Upon written request by the City, the Company shall provide the City non-confidential copies of all applications, advice letters and periodic reports, together with any accompanying non-confidential testimony and exhibits, filed by the Company with the Public Utilities Commission. Notwithstanding the foregoing, notice regarding any gas and electric filings that may affect Utility Service rates in the City shall be sent to the City upon filing.

Section 21.9 Information. Upon written request, the Company shall provide the City Clerk or the City Clerk's designee with:

- (A) A copy of the Company's or its parent company's consolidated annual financial report, or alternatively, a URL link to a location where the same information is available on the Company's website;
- (B) Maps or schematics indicating the location of specific Company Facilities (subject to City executing a confidentiality agreement as required by Company policy), including gas or electric lines, located within the City, to the extent those maps or schematics are in existence at the time of the request and related to an ongoing project within the City. The Company does not represent or warrant the accuracy of any such maps or schematics; and
- (C) A copy of any report required to be prepared for a federal or state agency detailing the Company's efforts to comply with federal and state air and water pollution laws.

Section 21.10 Payment of Taxes and Fees.

- (A) **Impositions.** Except as otherwise provided herein, the Company shall pay and discharge as they become due, promptly and before delinquency, all taxes, assessments, rates, charges, license fees, municipal liens, levies, excises, or imposts, whether general or special, or ordinary or extraordinary, of every name, nature, and kind whatsoever, including all governmental charges of whatsoever name, nature, or kind, which may be levied, assessed, charged, or imposed, or which may become a lien or charge against this Franchise ("**Impositions**"), provided that the Company shall have the right to contest any such Impositions and shall not be in breach of this Section so long as it is actively contesting such Impositions.
- (B) **City Liability.** The City shall not be liable for the payment of late charges, interest or penalties of any nature other than pursuant to applicable Tariffs.

Section 21.11 Conflict of Interest. The parties agree that no official, officer or employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and the Company further agrees not to hire or contract for services any official, officer or employee of the City to the extent prohibited by law, including ordinances and regulations of the City.

Section 21.12 Certificate of Public Convenience and Necessity. The City agrees to support the Company's application to the PUC to obtain a Certificate of Public Convenience and Necessity to exercise its rights and obligations under this Franchise.

Section 21.13 Authority. Each party represents and warrants that except as set forth below, it has taken all actions that are necessary or that are required by its ordinances, regulations, procedures, bylaws, or applicable law, to legally authorize the undersigned signatories to execute this Franchise on behalf of the parties and to bind the parties to its terms. The persons executing this Franchise on behalf of each of the parties warrant that they have full authorization to execute this Franchise. The City acknowledges that notwithstanding the foregoing, the Company requires

a Certificate of Public Convenience and Necessity from the PUC in order to operate under the terms of this Franchise.

Section 21.14 Severability. Should any one or more provisions of this Franchise be determined to be unconstitutional, illegal, unenforceable or otherwise void, all other provisions nevertheless shall remain effective; provided, however, to the extent allowed by law, the parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft one or more substitute provisions that will achieve the original intent of the parties hereunder.

Section 21.15 Force Majeure. Neither the City nor the Company shall be in breach of this Franchise if a failure to perform any of the duties under this Franchise is due to a Force Majeure Event, as defined herein.

Section 21.16 Earlier Franchises Superseded. This Franchise shall constitute the only franchise between the City and the Company related to the furnishing of Utility Service, and it supersedes and cancels all former franchises between the parties hereto.

Section 21.17 Titles Not Controlling. Titles of the paragraphs herein are for reference only and shall not be used to construe the language of this Franchise.

Section 21.18 Applicable Law. Colorado law shall apply to the construction and enforcement of this Franchise. The parties agree that venue for any litigation arising out of this Franchise shall be in the District Court for Garfield County, State of Colorado.

Section 21.19 Payment of Expenses Incurred by City in Relation to Franchise Agreement. The Company shall pay for expenses reasonably incurred by the City for the adoption of this Franchise, limited to the publication of notices, publication of ordinances, and photocopying of documents and other similar expenses. In addition, in recognition of the City Council adoption of Ordinance No. 17, Series 2022, and voter approval of the same, the Company agrees to contribute to the City Two Thousand and 00/100 (\$2000.00) towards the costs of the election required to approve said Ordinance.

Section 21.20 Costs of Compliance with Franchise. The parties acknowledge that PUC rules, regulations and final decisions may require that costs of complying with certain provisions of this Franchise be borne by customers of the Company who are located within the City.

Section 21.21 Conveyance of City Streets, Public Utility Easements or Other City Property. In the event the City vacates, releases, sells, conveys, transfers or otherwise disposes of a City Street, or any portion of a Public Utility Easement or Other City Property in which Company Facilities are located, the City shall reserve an easement in favor of the Company over that portion of the Street, Public Utility Easement or Other City Property in which such Company Facilities are located. The Company and the City shall work together to prepare the necessary legal description to effectuate such reservation. For the purposes of Section 6.9(A) of this Franchise, the land vacated, released, sold, conveyed, transferred or otherwise disposed of by the City shall no longer be deemed to be a Street or Other City Property from which the City may

demand the Company temporarily or permanently Relocate Company Facilities at the Company's expense.

Section 21.22 Audit. For any audits specifically allowed under this Franchise, such audits shall be subject to the Tariff and PUC rules and regulations. Audits in which the auditor is compensated on the basis of a contingency fee arrangement shall not be permitted.

Section 21.23 Land Use Coordination. The City shall use reasonable efforts to coordinate with the Company regarding its land use planning affecting the Company's Facilities or property within the Company's PUC-certificated service territory or affecting the Company's property. This coordination shall include meeting with the Company and identifying areas for future utility development.

Section 21.24 Counterpart Signature. This Franchise may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Franchise, and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals.

Section 21.25 Approval. This Agreement shall not become effective until the City Council adopts an ordinance approving this Franchise in accordance with the City's home rule charter.

(Signature page follows.)

(remainder of page intentionally blank)

IN WITNESS WHEREOF, the parties have caused this Franchise to be executed as of the dates indicated below, effective as of the Effective Date.

CITY OF RIFLE

ATTEST:

Clerk, City of Rifle

Mayor, City of Rifle

APPROVED AS TO FORM:
(if applicable)

Date: _____, 2023

City Attorney, City of Rifle

**PUBLIC SERVICE COMPANY OF
COLORADO**, a Colorado corporation

By: _____
Robert S. Kenney
President, Public Service Company of Colorado

STATE OF COLORADO)
)ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by Robert S. Kenney, President, Public Service Company of Colorado, a Colorado corporation.

WITNESS MY HAND AND OFFICIAL SEAL.

(SEAL)

Notary Public
My Commission expires: _____.

CITY OF RIFLE, COLORADO
ORDINANCE NO. 14
SERIES OF 2023

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO GRANTING BY FRANCHISE TO PUBLIC SERVICE COMPANY OF COLORADO, ITS AFFILIATES, SUCCESSORS AND ASSIGNS, THE RIGHT TO USE THE STREETS WITHIN THE CITY TO FURNISH, SELL, TRANSMIT AND DISTRIBUTE GAS AND ELECTRICITY TO THE CITY AND TO ALL RESIDENTS OF THE CITY, GRANTING THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH THE CITY ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL, TRANSMIT AND DISTRIBUTE GAS AND ELECTRICITY WITHIN AND THROUGH THE CITY AND FIXING THE TERMS AND CONDITIONS THEREOF, AND REPEALING ARTICLE II OF CHAPTER 5 OF THE RIFLE MUNICIPAL CODE.

WHEREAS, Public Service Company of Colorado has filed an Application for a Franchise with the City of Rifle for the granting to it by the City a Gas and Electric Franchise in terms as hereinafter set forth; and

WHEREAS, Public Service Company has published the Notice of Application for Franchise as required by C.R.S. Section 31-32-102; and

WHEREAS, Section 12.2 of the City of Rifle Charter requires that no franchise shall be granted except upon the affirmative vote of at least five members of Council; and

WHEREAS, the City Council desires to grant Public Service Company of Colorado a franchise to provide gas and electric service in the City on the terms and conditions stated in the Gas and Electric Franchise Agreement ("Franchise Agreement") attached to this Ordinance as Exhibit A.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF RIFLE ORDAINS THAT:

1. Recitals. The City Council incorporates the foregoing recitals as conclusions, facts, determinations and findings by the City Council.

2. Grant of Franchise. The City Council of the City of Rifle with the approval of at least five members of the City Council hereby grants to the Public Service Company of Colorado a franchise to provide gas and electric service in the City on the terms and conditions stated in the Franchise Agreement attached to this Ordinance and incorporated herein.

3. Repeal of Article II of Chapter 5 of the Rifle Municipal Code. Article II of Chapter 5 of the Rifle Municipal Code is hereby repealed in its entirety and the Franchise Agreement shall not be codified in the Rifle Municipal Code.

INTRODUCED on July 5, 2023, read by title, passed on first reading following a public hearing, and ordered published as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on July 19, 2023, passed without amendment, and ordered published in full as required by the Charter.

Dated this _____ day of _____, 2023.

CITY OF RIFLE

Mayor

ATTEST:

City Clerk



Agenda Item #9.a.

Agenda Item Name:

Consider Approval of Martin Construction for 2023 Street and Asphalt Improvements

Presenter:

Craig Spaulding, Civil Engineer

Item Description:

Consider Approval of Martin Construction for 2023 Street and Asphalt Improvements to Prefontaine Ave, Wapiti St, Hospital Hill Road, E 5th St, 26th St, and 14th St.

Recommended Action:

Move to approve Martin Construction for the 2023 Street and Asphalt Improvements in the amount of \$595,321.00

Fiscal Impact:

Yes, this project will be funded by general fund via a transfer at the completion of the project.

Operational Impact:

Yes, this will reduce patching and improve plowing.

Prior Board Motions:

N/A

Background Information:

During strategic planning staff and council added a street improvement project to 2023 and committed to using the general fund. The project was scoped to improve streets that were in medium condition which means that the subgrade is still in good condition and the repair prevents major construction in the future.

Executive Summary:

This project improves streets in Rifle that are commonly used and benefit nearly all citizens. The bid was posted publicly and bids were received from two qualified contractors. After applying local preference Martin Construction was still the lowest qualified bidder. The numbers were at the target cost based on previous discussions.

Notification Requirements:

N/A

Prepared By:

Craig Spaulding, Civil Engineer

Attachments:

1. 2023 Asphalt and Steet Improvements Project Manual
2. 23 Asphalt Patching
3. 2023 SIF Budget Summary 6.30.23
4. APO 2023 Bid Tab
5. PURCHASE REQUEST Martin Construcion 6.30.23

2023 Steet and Asphalt Improvements



PROJECT MANUAL

**CITY OF RIFLE
202 RAILROAD AVENUE
RIFLE, COLORADO 81650**

2023

Pre-Bid Meeting: N/A

Bid Due Date: June 28, 2023

Award Date: July 5, 2023

Construction Start Date: August 2023

Construction Completion Date: October 2023

Project Directory

Project Engineer

Craig Spaulding
202 Railroad Ave
Rifle, CO 81650
970-665-6556
cspaulding@rifleco.org

Public Works Director

Brian Prunty
202 Railroad Ave
Rifle, CO 81650
970-665-6554
bprunty@rifleco.org

Construction Inspector

Jeff Shanks
202 Railroad Ave
Rifle, CO 81650
jshanks@rifleco.org

Table of Contents

Project Title Page.....	1
Project Directory.....	2
Table of Contents.....	3
List of Drawing Sheets.....	7
ADVERTISEMENT FOR BIDS	8
Instructions to Bidders	9
1.0 Defined Terms	9
2.0 Copies of Bidding Documents	9
3.0 Qualifications of Bidders	9
4.0 Examination of Contract Documents and Site	9
5.0 Interpretations and Addenda	10
6.0 Conditions of Work.....	10
7.0 Substitute or “Or-Equal” Items	10
8.0 Subcontracts.....	11
9.0 Bid Form	11
10.0 Submission of Bids	11
11.0 Modification and Withdrawal of Bids	11
12.0 Bids to Remain Subject to Acceptance	12
13.0 Award of Contract.....	12
14.0 Laws and Regulations	12
15.0 Complete Prices	12
16.0 Permits and Fees	13
17.0 Authorities.....	13
18.0 Subsurface Investigations	13
19.0 Completion of Work	13
20.0. Bid Bond	13
21.0 Payment Bond.....	14
22.0 Performance Bond	14
23.0 Work by Illegal Aliens Prohibited	14
24.0 Local Contractor Preference	15

25.0 Scopes of Bids.....	15
Required Bid Documents.....	16
BID FORM	17
LIST OF MATERIALS SUPPLIERS / SUBCONTRACTORS	21
Bid Schedule	22
BID BOND	27
CONTRACTOR’S LICENSING STATEMENT FORM.....	29
AGREEMENT	30
Contingency Allowances	32
Preliminary Construction Schedule	32
Certificate of Insurance.....	33
Performance Bond Form.....	33
Payment Bond Form	35
NOTICE TO PROCEED	37
General Conditions	38
PWM Section 2.1. ADDITIONAL INSTRUCTIONS, MODIFICATIONS AND DETAIL DRAWINGS	38
PWM Section 2.2. EXECUTION, CORRELATION, INTENT, INTERPRETATION AND FURNISHING OF CONTRACT DOCUMENTS	38
PWM Section 2.3. SCHEDULES, REPORTS AND RECORDS	38
PWM Section 2.4. DRAWINGS, SPECIFICATIONS, CONFLICTS AND DISCREPANCIES.....	39
PWM Section 2.5. SHOP DRAWINGS AND MATERIAL SAMPLES	39
PWM Section 2.6. MATERIALS, SERVICES, AND FACILITIES	39
PWM Section 2.7. INSPECTION AND TESTING.....	40
PWM Section 2.8. SUBSTITUTIONS	40
PWM Section 2.9. PATENTS	40
PWM Section 2.10. SURVEYS	41
PWM Section 2.11. LICENSES, PERMITS, AND REGULATIONS	41
PWM Section 2.12. PROTECTION OF WORK, EMPLOYEES, PUBLIC AND PROPERTY	41
PWM Section 2.13. EMERGENCIES	41
PWM Section 2.14. LAWS, ORDINANCES, RULES, REGULATIONS, AND ORDERS	42
PWM Section 2.15. SUPERVISION AND DISCIPLINE BY CONTRACTOR	42
PWM Section 2.16. CHANGES IN THE WORK	42

PWM Section 2.17. CHANGES IN CONTRACT PRICE	43
PWM Section 2.18. CHANGES IN CONTRACT TIME.....	44
PWM Section 2.19. TIME FOR COMPLETION AND LIQUIDATED DAMAGES	45
PWM Section 2.20. CORRECTION OF WORK	46
PWM Section 2.21. SUBSURFACE CONDITIONS	46
PWM Section 2.22. SUSPENSION, DELAY OR INTERRUPTION OF WORK.....	46
PWM Section 2.23. OWNER'S RIGHT TO TERMINATE OR ABANDON WORK	47
PWM Section 2.24. CONTRACTOR'S RIGHT TO TERMINATE OR STOP WORK	47
PWM Section 2.25. SUBCONTRACTING.....	47
PWM Section 2.26. CONTRACT SECURITY	48
PWM Section 2.27. PARTIAL COMPLETION AND OCCUPANCY	48
PWM Section 2.28. MEASUREMENT OF QUANTITIES FOR PAYMENT	48
PWM Section 2.29. SCOPE OF PAYMENT	49
PWM Section 2.30. PARTIAL PAYMENT AND CERTIFIED TAX REPORTS	49
PWM Section 2.31. FINAL PAYMENT REQUEST, ACCEPTANCE AND RELEASE	50
PWM Section 2.32. INSURANCE	50
PWM Section 2.33. SEPARATE CONTRACTS	52
PWM Section 2.34. HOUSEKEEPING AND CLEANUP.....	52
PWM Section 2.35. ASSIGNMENT	52
PWM Section 2.36. INDEMNIFICATION	53
PWM Section 2.37. ENGINEER'S STATUS AND DECISIONS.....	53
PWM Section 2.38. LAND, RIGHTS-OF-WAY, EASEMENTS AND ENCROACHMENTS.....	53
PWM Section 2.39. GUARANTY AND WARRANTY	53
PWM Section 2.40. TAXES	54
PWM Section 2.41. DESIGNING AND PERFORMING WORK WITHOUT A CONTRACT AGREEMENT.....	54
PWM Section 2.42. CLOSEOUT	54
PWM Section 2.43. RIGHTS AND REMEDIES	55
Supplementary General Conditions	57
1.00 GENERAL	57
2.00 INSURANCE.....	57
3.00 TAX EXEMPTION.	58
4.00 FINAL PAYMENT.	58

5.00 COMPLETION TIME.....	58
6.00 OWNER'S REPRESENTATIVE.....	58
7.00 SAFETY REQUIREMENTS.....	58
8.00 LAWS AND ORDINANCES.....	59
9.00 WAIVER.....	59
10.00 PROTECTION OF PUBLIC UTILITIES AND OTHER ADJOINING PROPERTY.....	59
11.00 PROJECT PHOTOGRAPHS/VIDEOS	59
12.00 DAMAGE TO CONSTRUCTION.....	60
13.00 PRE-CONSTRUCTION CONFERENCE.....	60
14.00 BIDDER EXPERIENCE.....	60
16.00 PERFORMANCE AND PAYMENT BONDS.....	60
17.00 WARRANTY INSPECTION.....	60
18.00 SOILS INVESTIGATION.....	60
19.00 JOB SITE RESTRICTIONS.....	61
20.00 ARBITRATION.....	61
21.00 PAYMENT RETAINAGE.....	61
22.00 REFERENCE TO OWNER.....	61
23.00 NOTIFICATION TO ADJACENT PROPERTY OWNERS.....	61
24.00 DRAWING ACCURACY AND EXISTING UTILITIES.....	61
25.00 ABBREVIATIONS.....	63
26.00 PERMITS AND EASEMENTS.....	63
27.00 SUBSTITUTION OF MATERIALS.....	63
28.00 CONTROLLED AREA OF WORK.....	65
29.00 INTERPRETATION OF ESTIMATED QUANTITIES.....	65
30.00 TEMPORARY FACILITIES.....	65
31.00 CLEAN-UP.....	65
32.00 MEASUREMENTS AND PAYMENT.....	65
33.00 SUBMITTALS.....	65
34.00 COMMUNICATION.....	65
35.00 PROJECT SIGN.....	66
Technical Specifications	67
Submittal Schedule	67

TRAFFIC CONTROL 67

 I General..... 67

 II Products 68

 III Execution 68

Asphalt 69

 I General..... 69

 II Products 69

 III Execution 69

Striping..... 71

 I General..... 71

List of Drawing Sheets
Asphalt Map

ADVERTISEMENT FOR BIDS

Sealed BIDS for the construction of the **2023 Steet and Asphalt Improvements** will be received at the **Council Chambers, Rifle City Hall, 202 Railroad Avenue, Rifle, CO.** until 2:00pm, on June 28, 2023, at which time they will be publicly opened and read aloud.

This project consists of removal and replacement of asphalt, traffic control, and stiping of surfaces on 5 streets within Rifle. Quantities of work include approximately 2,700 tons of removal and replacement of asphalt, and 2800 lf of double yellow striping Locations for the various aspects are shown on a map included in the on-line bid package. Bid review and award shall be based upon the total price and qualifications.

A Bid Bond in the amount of 5% of bid price is required, and a Performance and a Payment Bond, each in the amount of 100% of bid, will be required. Bid Award will be the July 5, 2023 Council Meeting. Time of Commencement of the Work is anticipated to be no later than August 2023, with completion by October 2023.

A PREFERENCE FOR LOCAL CONTRACTORS WILL BE APPLIED BY THE OWNER WHEN SELECTING A CONTRACTOR.

A Pre-Bid will be held at 10:00 am at Rifle City Council on May 6, 2022.

Digital copies of the Contract Documents may be downloaded from the City website at <http://www.rifleco.org/216/Projects-Out-To-Bid> for free. Contact Craig Spaulding, cspaulding@rifleco.org, 970-665-6556 for questions or issues with downloading the documentation.

Instructions to Bidders

1.0 Defined Terms

Terms used in these Instructions to Bidders, which are defined in the General Conditions of the City of Rifle Public Works Manual, have the meaning assigned to them in the General Conditions. The term “Bidder” means one who submits a Bid directly to Owner, as distinct from a sub-bidder, who submits a Bid to a Bidder. The term “Successful Bidder” means the lowest, qualified, responsible and responsive Bidder to whom Owner (on the basis of Owner’s evaluation as hereinafter provided) makes an award. The term “Bidding Documents” includes the Advertisement for Bids, Instructions to Bidders, the Bid Form, and the Contract Documents (including all Addenda issued prior to receipt of Bids).

2.0 Copies of Bidding Documents

2.1 Complete sets of Bidding Documents must be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents. The City of Rifle Public Works Manual, Part I-General Conditions, Part II-Construction Materials and Methods and Part III Minimum Design Standards shall be followed unless otherwise specified herein. In case of conflict, follow the Supplementary General Conditions section 25, Precedence of Contract Documents. Copies of the Public Works Manual are available on Rifle’s web site www.rifleco.org.

2.2 Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids on the work and do not confer a license or grant for any other use.

3.0 Qualifications of Bidders

The Owner may make such investigations as he deems necessary to determine the ability of the Bidder to perform the work, and to demonstrate qualifications to perform the Work. Each Bidder must be prepared to submit within five days of Owner's request written evidence of the types set forth in the Supplementary Conditions, such as financial data, previous experience and evidence of authority to conduct business in the jurisdiction where the Project is located. Each Bid must contain evidence of Bidder's qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the contract. The Owner reserves the right to reject any Bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the Owner that such Bidder is properly qualified to carry out the obligations of the Contract and to complete the work contemplated therein.

4.0 Examination of Contract Documents and Site

4.1 It is the responsibility of each Bidder before submitting a Bid, to (a) examine the Contract Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the work, (c) consider federal, state and local laws and regulations that may affect cost, progress, performance or furnishing of the work, (d) study and carefully correlate Bidder’s observations with the Contract Documents, and (e) notify Engineer of all conflicts, errors or discrepancies in the Contract Documents.

4.2 Information and data reflected in the Contract documents with respect to Underground Facilities at or contiguous to the site are based upon information and data furnished to Owner and Engineer by owners of such underground facilities or other, and Owner does not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

4.3 Before submitting a Bid, each Bidder will, at Bidder’s own expense, make or obtain any additional examinations, investigations, explorations, tests, and studies and obtain any additional information and

data which pertain to the physical conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the work and which Bidder deems necessary to determine its Bid for performing and furnishing the work in accordance with the time, price and other terms and conditions of the Contract Documents.

4.4 On request, in advance, Owner will provide each Bidder access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall fill and patch all holes, clean up, and restore the site to its former condition upon completion of such exploration.

4.5 The lands upon which the work is to be performed, rights-of-way, and easements for access thereto and other lands designated for use by Contractor in performing the work, are identified in the Contract Documents. All additional lands, and access thereto, required for temporary construction facilities or storage of materials and equipment, are to be provided by Contractor.

4.6 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions of performance and furnishing of the work.

5.0 Interpretations and Addenda

5.1 All questions about the meaning or intent of the Contract Documents are to be directed to Engineer. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than five (5) days prior to the date of opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

5.2 Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner or Engineer.

6.0 Conditions of Work

Each Bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful Bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his Contract. Insofar as possible, the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor or danger to the public.

7.0 Substitute or “Or-Equal” Items

The Contract, if awarded, will be on the basis of materials and equipment described in the drawings or specified in the specifications, without consideration of possible substitute or “or-equal” items. Whenever it is indicated in the drawings or specified in the Specifications that substitute or “or-equal” items of materials or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the effective date of the Agreement. The procedure for submission of any such application by Contractor and consideration by Engineer is set forth in the General Conditions and may be supplemented by the Supplementary Conditions.

8.0 Subcontracts

The Bidder is specifically advised that any person, firm, or other party to whom it is proposed to award a subcontract under this Contract must be acceptable to the Owner. The bidder shall submit, with their bid, a completed list of subcontractors they propose to use on this contract.

9.0 Bid Form

9.1 The Bid Form is included with the Bidding Documents; additional copies may be obtained from City Hall of Rifle, 202 Railroad Avenue, Rifle, Colorado.

9.2 All blanks on the Bid Form must be completed in ink, by typewriter, or electronically and printed.

NOTE: The spreadsheet is offered for your convenience only. The contractor is responsible for use and confirmation of any formulae or calculations therein. The submittal may be on the pdf. All tracking of project progress will be through that spreadsheet.

9.3 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign), and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.

9.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

9.5 All names must be typed or printed below the signature.

9.6 The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).

9.7 The address, email, and telephone number for communications regarding the Bid must be shown.

10.0 Submission of Bids

Bids shall be submitted at the time and place indicated in the Invitation to Bid and shall be enclosed in an opaque sealed envelope, marked with the project title (and, if applicable, the designated portion of the project for which the Bid is submitted) and name and address of the Bidder and accompanied by the required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it. Any submission received after the advertised Bid Opening shall be returned unopened to the sender.

11.0 Modification and Withdrawal of Bids

11.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

11.2 If, within twenty-four (24) hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and Engineer and promptly thereafter demonstrates to the reasonable satisfaction of Owner and Engineer that there was a material and substantial mistake in the presentation of its Bid, that Bidder may withdraw its Bid.

12.0 Bids to Remain Subject to Acceptance

All Bids will remain subject to acceptance for sixty (60) days after the day of the Bid opening, but Owner may, in its sole discretion, release any Bid prior to that date.

13.0 Award of Contract

13.1 Owner reserves the right to reject any and all Bids, to waive any and all informalities, and to negotiate Contract terms with the Successful Bidder, and the right to disregard all nonconforming, non-responsible, unbalanced or conditional Bids. Also, Owner reserves the right to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the project to make an award to that Bidder, whether because the bid is not responsible, or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner.

13.2 In evaluation of Bids, Owner will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

13.3 Owner may consider the qualifications and experience of subcontractors, suppliers and other persons and organizations proposed for those portions of the work as to which the identity or subcontractors, suppliers, and other persons and organizations may be submitted as provided in the Supplementary Conditions. Owner also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the work when such data is required to be submitted prior to the Notice of Award.

13.4 Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed subcontractors, suppliers and other persons and organizations to perform and furnish the work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

13.5 If the Contract is to be awarded, it will be awarded to the lowest Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interests of the Project.

13.6 Section 2.26 of the General Conditions of the City of Rifle's Public Works Manual and section 16.00 of the Supplementary Conditions set forth Owner's requirements as to performance and other Bonds. When the Successful Bidder delivers the executed Agreement to Owner, it shall be accompanied by the required Contract Security.

13.7 If the Contract is to be awarded, Owner will give the successful Bidder a Notice of Award within sixty (60) days after the date of the Bid opening.

14.0 Laws and Regulations

The Bidders' attention is directed to the fact that all applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though herein written out in full.

15.0 Complete Prices

All lump sum, alternate, and unit prices must include all required General Conditions line items necessary to complete the work, including, but not limited to the following (as required): all permits, insurance, and taxes (except as specified in Article 3.0 of the Supplementary General Conditions); supervision; layout

and survey as needed; protection of all surrounding materials; lifting/hoisting; equipment and personnel; off-site management and administrative assistance; trash disposal to a separate dumpster; miscellaneous equipment; mobilization; as-built drawings; fuel, watchmen, flagmen, and site security; scheduling; small tools; drawings and printing expenses and mailing costs.

15.1 On bid items to be paid as lump sum that may extend beyond a single pay estimate, a schedule of values shall be submitted to OWNER a minimum of 10 days prior to commencement of work. Adequate detail shall be given to allow a value to be placed on work completed during any given pay estimate.

16.0 Permits and Fees

Bids shall include all sales tax (except as specified in Article 3.0 of the Supplementary General Conditions) and all other applicable taxes and fees related directly to the construction of this project. Fees for permits and inspections directly related to this construction will be paid by the BIDDER; however, no tap fees or access charges for this or subsequent work will be the responsibility of the BIDDER. City has Tax Exemption, a copy of which will be provided to the Contractor. Contractor and all subcontractors shall hold a current license to perform work in Rifle, Garfield County, and the State of Colorado.

17.0 Authorities

Technical Specifications included herein supplement the Standard Specifications and take precedence. Work shall be completed as per these specifications and accepted by the Owner or proper agencies having jurisdiction before final payment is requested of the Owner.

18.0 Subsurface Investigations

Geotechnical reports, if available, are included in the appendix of the Project Manual. Contractor use of such reports shall be in accordance with section 18.00 "Soils Investigation", of the Supplemental General Conditions.

19.0 Completion of Work

Work shall be completed as per the City of Rifle Public Works Manual (and as modified by these specifications) and accepted by the Owner or proper agencies having jurisdiction before final payment is requested of the Owner.

****Contractor shall provide a daily estimate of progress to the Public Works Director or City representative to verify quantities and that we shall stay within the contracted price. The City shall not pay for work above the contract price.**

20.0. Bid Bond

Bid security shall be made payable to the Owner in the amount of 5% of the bidder's maximum bid price in the form of a certified check or a bid bond, using the form herein, issued by a surety meeting the requirements of the Supplementary General Conditions. The bid security of the successful bidder will be retained until such bidder has executed the agreement and furnished the required contract security whereupon it will be returned; if the successful bidder fails to execute and deliver the agreement and furnish the required contract security within ten (10) days of the Notice of Award, the Owner may annul Notice of award and the bid security of that bidder will be forfeited. Owner will return bid bonds or checks of unsuccessful bidder within or by 60 days after the bid submittal date.

21.0 Payment Bond

Payment Bond form is found in Agreement Documents section of this package.

22.0 Performance Bond

Performance Bond form is found in Agreement Documents section of this package.

23.0 Work by Illegal Aliens Prohibited

Work By Illegal Aliens Prohibited. Pursuant to Section 8-17.50191, C.R.S., *et. Seq.*,

Contractor warrants, represents, acknowledges, and agrees that:

1. Contractor does not knowingly employ or contract with an illegal alien.
2. Contractor shall not knowingly employ or contract with an illegal alien to perform works or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
3. Contractor has participated in or attempted to participate in the basic pilot employment verification program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the Department of Homeland Security (hereinafter, "Basic Pilot Program") in order to verify that Contractor does not employ illegal aliens. If Contractor is not accepted into the Basic Pilot Program prior to entering into this Agreement, Contractor shall forthwith apply to participate in the Basic Pilot Program and shall submit to the City written verification of such application within five (5) days of the date of this Agreement. Contractor shall continue to apply to participate in the Basic Pilot Program and shall verify such application to the City in writing, every three (3) months until Contractor is accepted or this Agreement is completed, whichever occurs first. This Paragraph 3 shall be null and void if the Basic Pilot Program is discontinued.
4. Contractor shall not use the Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
5. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall be required to:
 - (a) notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (b) terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
6. Contractor shall comply with any reasonable request be the Colorado Department of Labor and Employment ("Department") made in the course of an investigation that the Department is undertaking pursuant to the authority established in subsection 8-17.5-102(5), C.R.S.
7. Contractor violates this Addendum; the City may terminate this Agreement for breach of contract. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the City arising out of said violation.

24.0 Local Contractor Preference

Primary and secondary preference will be given to contractors when determining the lowest responsible bidder for work on this project. Local contractors, who have a principal place of business, are 1) for primary preference, within the City of Rifle or within 3 miles of the City Limits and 2) for secondary preference, outside of the three mile limit but within Garfield County.

For projects of \$5,000 or more in value, to determine the lowest bidder, an amount equal to the percentage shown below will be deducted from the total price proposed for the work. The contract, however, will be awarded for the total bid price proposed.

Contract Amount	Primary Preference City of Rifle Goods/Vendors	Secondary Preference Garfield County Goods/Vendors
Less than \$1,000	10% discount	5% discount
\$1,001 to \$5,000	8% discount	4% discount
\$5,001 to \$25,000	6% discount	3% discount
\$25,001 to \$100,000	5% discount	2.5% discount
\$100,000 to \$200,000	4% discount	2% discount
\$200,001 to \$500,000	3% discount	1.5% discount
\$500,000 or greater	2% discount	1% discount

25.0 Scopes of Bids

4.7 General Scope of Project:

This project consists of removal and replacement of asphalt, traffic control, and striping of surfaces on 5 streets within Rifle. Quantities of work include approximately 2,700 tons of removal and replacement of asphalt, and 2800 lf of double yellow striping. Locations for the various aspects are shown on a map included in the on-line bid package. Bid review and award shall be based upon the total price and qualifications.

END OF INSTRUCTIONS TO BIDDERS

Required Bid Documents

Bids shall be submitted at the time and place indicated in the Invitation to Bid and shall be enclosed in an opaque sealed envelope, marked with the project title (and, if applicable, the designated portion of the project for which the Bid is submitted) and name and address of the Bidder and accompanied by the required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it. Any submission received after the advertised Bid Opening shall be returned unopened to the sender. Required Bid Documents are in the Bid Submittal Checklist Below

- _____ **Bid Form**
- _____ **List of Materials Suppliers/ Subcontractors**
- _____ **Contractor's License**
- _____ **Bid Schedule**
- _____ **Bid Bond**

CITY OF RIFLE
BID FORM
FOR CONSTRUCTION OF:
2023 Steet and Asphalt Improvements

DATE: _____

OWNER: City of Rifle
202 Railroad Avenue
Rifle CO 81650
Attn: Craig Spaulding

BIDDER: Name of Bidder _____

Address of Bidder _____

Phone Number _____

Email Address _____

Contact Name _____

THE UNDERSIGNED BIDDER, having familiarized himself with the Work required by the Contract Documents, the site and conditions where the Work is to be performed, local labor conditions, and all laws, regulations, and other factors affecting performance of the Work, and having satisfied himself of the expense and difficulties attending performance of the Work,

HEREBY PROPOSES and agrees, if this Bid is accepted, to enter into Agreement with the Owner to perform all work, including the assumption of all obligations, duties, and responsibilities necessary to the successful completion of the contract and the furnishing of all materials and equipment required to be incorporated in and form a permanent part of the Work; tools, equipment, supplies, transportation, facilities, labor, superintendence, and services required to perform the Work; and bonds, insurance, submittals; and all fees as indicated or specified in the Contract Documents to be performed or furnished by BIDDER for the amount identified and detailed in the BID SCHEDULE and further totaled below ("Bid Proposal Amount"):

_____ Dollars(\$_____)
(written) (numeric)

CITY OF RIFLE
BID FORM page2

DOCUMENTS AND ADDENDA:

The BIDDER submits that he has carefully examined the site of the proposed work and the existing conditions, as well as the drawings and specifications. Also, he has thoroughly reviewed the proposal form, Instructions to Bidders, General Conditions, Supplementary Conditions, General Requirements, and the Specifications and Drawings, and acknowledges that the following addenda covering revisions to the drawings and/or specifications, and the cost, if any, of such revisions has been included in the Total Bid Price.

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

CHANGES TO THE WORK:

BIDDER agrees to perform all the WORK for the Total Base Bid price identified in the "Bid Proposal Amount." If circumstances arise during construction of this project which dictate a change in quantity, then the pricing for that particular portion of the job will be adjusted up or down with the BIDDER'S Schedule of Values (as included in the Contract Documents) to the revised quantity required by the construction circumstances of these plans. Final payment will be based upon count or measurement of items in place upon completion of the project at the units of measure and unit prices, with the exception of lump sum items.

For changes not covered by a contract unit price, BIDDER proposes that all such changes ordered to the work which increases the Scope of Work shall be priced in advance of the work and such unit prices will be approved by the Owner prior to commencement of work.

PERFORMANCE AND LABOR & MATERIAL PAYMENT BONDS:

By signing and submitting this Bid Proposal, the BIDDER certifies that upon demand, Performance and Labor & Material Payment Bonds can be furnished in amounts sufficient to cover the total proposed cost of work.

TIME OF COMMENCEMENT, COMPLETION, AND DAMAGES:

The BIDDER agrees that, if awarded the Contract, the Work will be substantially complete, ready for occupancy by Owner, according to the schedule submitted by BIDDER of within the indicated construction durations specified within the Contract Documents except for delays caused by Acts of God, neglect of the Owner or the

CITY OF RIFLE
BID FORM page 3

Representative of the Owner or other causes beyond the BIDDER'S control, and allows for no time due to labor disputes or strikes. Weather (unless severe) is not considered as an excuse for delay of the work.

Time is expressly declared to be of the essence in completion of the Work covered by the Contract Documents. Where additional time is allowed under the Agreement for the Completion of the work, the new time limits shall be of the essence of the Agreement.

GENERAL AGREEMENTS:

The BIDDER agrees to the following:

The BIDDER has had an opportunity to examine the Site of the work and has examined the Contract Documents therefore.

The BIDDER has carefully prepared the bid proposal upon the basis thereof and has carefully examined and checked the Bid Proposal and the materials, equipment and labor required thereunder, the cost thereof, and figures therefore, and hereby states that the amount or amounts set forth in the Bid Proposal is, or are, correct and that no mistake or error has occurred in the Bid Proposal or in the BIDDER's computations upon which the Bid Proposal is based and the BIDDER agrees that no claim for reformation, modification, rescission or correction of the Bid Proposal will be made after the scheduled closing time for the receipt of Bid Proposals.

The BIDDER understands that the Owner reserves the right to reject any or all Bids for any or no reason and to waive any informality in the bidding.

The BIDDER understands that this Bid shall not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving bids.

The BIDDER understands that unless a bid item is included on the "Bid Schedule", no separate payment shall be made for items required to complete the work in accordance with the contract. If included on the bid schedule, then work under the item will be paid at the unit or units given and shall include all necessary work complete and in place.

In preparing the Bid Proposal, the BIDDER has verified and is reasonably assured of the availability of all labor, materials, and products in this document.

The BIDDER has carefully reviewed the Bid Documents in their entirety and has agreed to meet these requirements.

CITY OF RIFLE
BID FORM page 4

DOCUMENT EXECUTION:

DATED This _____ day of _____, 2023

(Name of Firm)

(Street Address)

(City, State, Zip)

(Signature)

(Printed Signature)

(Title)

Please check as appropriate:

_____ An individual

_____ A Partnership Between:

_____ A Corporation organized under the laws of the State of _____

END OF BID FORM

LIST OF MATERIALS SUPPLIERS / SUBCONTRACTORS

Provide the name of the materials supplier or subcontractor included in your base bid price. Any changes in the providers listed below can be made only with the approval of the Owner. Any amount of work greater than 10% of the amount bid shall be considered as a subcontractor/Materials Supplier.

Name of Subcontractor /Materials Supplier	Work Item Performed or Provided	% of Value

CITY OF RIFLE

Bid Schedule

Schedule A-E 26th St: Acacia Avenue to HWY 13						
Item		Description	Unit	Est. Quantity	Unit Price	Total
A1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1		
A2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1		
A3	Mill 2.5 inch	Milling and disposal to remove 2.5" of Asphalt per Sq. Yard	SY	5050		
A4	Grading	Watering, Grading and recompacting existing subgrade per Square Yard	LS	1		
A5	3" HMA	(1) lift, Compacted, Complete, per ton	ton	842		
A6	4" Solid Double Yellow Striping	furnish and install, includes all survey or layout. Per Linear Foot	lf	1000		
A7	Adjust MH's	Intall rings and or grout as necessary to match asphalt	Ea	4		
A8	Adjust water valves	May include excavation and backfill with Class 6,	Ea	4		
A25	MCR	Minor Contract Revisions	DOL	10000	-	\$ 10,000.00

Schedule B-Prefontaine: 5th Steet to 7th Street					Unit Price	Total
B1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1		
B2	Traffic Control	includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1		
B3	Adjust water valves	Intall rings and or grout as necessary to match asphalt	Ea	4		
B4	Mill	Milling and disposal to remove 2.75" of Asphalt per Sq. Yard	SY	2750		
B5	3" HMA	(1) lift, Compacted, Complete, per ton	ton	458		
B6	Striping (double yellow)	furnish and install, includes all survey or layout. Per Linear Foot	lf	750		
B7	Class 6 Shoulder	placed, moisture conditioned, compacted, and cleaned off new asphalt	CY	5		
B8	MCR	Minor Contract Revisions	DOL	5000		\$ 5,000.00

Schedule C-Hospital Hill Road					Unit Price	Total
C1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1		
C2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1		
C3	Milling	Milling and disposal to remove 5" of Asphalt per Sq. Yard	SY	1850		
C4	5" Hot Mix Asphalt	(2) lift, Compacted, Complete, per ton	ton	514		
C5	Striping (double yellow)	furnish and install, includes all survey or layout. Per Linear Foot	lf	800		
C6	Class 6 Shoulder	placed, moisture conditioned, compacted, and cleaned off new asphalt	CY	15		
C7	Class 6 for Grading	placed, moisture conditioned, compacted, and graded	CY	48		
C8	MCR	Minor Contract Revisions	DOL	5000	-	\$ 5,000.00

Schedule D-14th St RR Avenue to new asphalt					Unit Price	Total
D1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1		
D2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1		
D4	Mill Asphalt	Milling to remove 4" of Asphalt per Sq. Yard	SY	409		
D5	4" HMA	(2) lift, Compacted, Complete, per ton	ton	91		
D6	4" Solid Double Yellow Striping	furnish and install, includes all survey or layout. Per Linear Foot	lf	225		
D8	MCR	Minor Contract Revisions	DOL	20000	-	\$ 20,000.00
Schedule E-5th St Alley to Whiteriver					Unit Price	Total
E1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1		
E2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1		
E3	Mill Asphalt	Milling to remove 3" of Asphalt per Sq. Yard	SY	2875		
E4	4" HMA	(2) lift, Compacted, Complete, per ton	ton	639		
	Adjust water valves	May include excavation and backfill with Class 6,	Ea	5		
	Adjust MH's	Intall rings and or grout as necessary to match asphalt	Ea	2		
	Adjust monitering well	May include excavation and backfill with Class 6,	Ea	1		
E6	MCR	Minor Contract Revisions	DOL	20000	-	\$ 20,000.00

Schedule F-Wapiti Airport Road to end of failures					Unit Price	Total
E1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1		
E2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1		
E3	Mill Asphalt	Milling to remove 3" of Asphalt per Sq. Yard	SY	642		
E4	4" HMA	(2) lift, Compacted, Complete, per ton	ton	143		
E5	Adjust water valves	May include excavation and backfill with Class 6,	Ea	2		
E5	MCR	Minor Contract Revisions	DOL	20000	-	\$ 20,000.00

TOTAL BID PRICE

Total Bid Price in Words _____

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____

as Principal, and _____

held and firmly bound unto _____

in the penal sum of _____

for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed this _____ day of _____, 2023. The condition of the above obligation is such that whereas the Principal has submitted to the **CITY OF RIFLE, COLORADO**, a certain BID, attached hereto and hereby made a part hereof to enter into a contract in writing, for the 2023 Steet and Asphalt Improvements

NOW, THEREFORE,

[a] If said Bid shall be rejected, or

[b] If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a Bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

_____(L.S.)

Principal

Surety

By: _____

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as Amended) and be authorized to transact business in the state where the project is located.

CONTRACTOR'S LICENSING STATEMENT FORM

The undersigned is licensed in accordance with the laws of Colorado providing for the registration of Contractors: License Number _____; Class _____.

Name of Contractor's Firm _____

Business Address and Telephone Number _____

Name of Individual Owner (print) _____

Signature of Owner _____

OR

Signature, Title, and Address of members signing on behalf of the partnership:

Name _____ Title _____

Address _____

Name _____ Title _____

Address _____

Name _____ Title _____

Address _____

OR

Corporation organized under the laws of the State of _____

Signature of President of Corporation

Signature of Secretary of Corporation

(Place Seal Here)

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2023, by and between, CITY OF RIFLE hereinafter called "OWNER", and _____ doing business as a Corporation, hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the construction of _____
2023 Steet and Asphalt Improvements
2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other service necessary for the construction and completion of the WORK described herein.
3. The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS within **14** calendar days after the date of the NOTICE TO PROCEED and will complete the same by **as indicated in the contract documents**, unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS.
4. The Contractor agrees to perform all of the Work described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of (\$ _____) dollars or as shown in the BID SCHEDULE.
5. The term "CONTRACT DOCUMENTS" means and includes the following:
 - A. ADVERTISEMENT FOR BID
 - B. INSTRUCTIONS TO BIDDERS
 - C. BID
 - D. BID BOND
 - E. AGREEMENT
 - F. GENERAL CONDITIONS (CITY OF RIFLE PUBLIC WORKS MANUAL)
 - G. SUPPLEMENTARY GENERAL CONDITIONS
 - H. PAYMENT BOND
 - I. PERFORMANCE BOND
 - J. NOTICE OF AWARD
 - K. NOTICE TO PROCEED
 - L. List of Drawing Sheets: Asphalt Map
 - M. TYPICAL SPECIFICATIONS noted in the City Public Works Manual and CDOT Specifications.
 - N. Technical Specifications
 - O. ADDENDA: No. _____, dated _____, 2023.
6. The OWNER will pay to the CONTRACTOR in the manner and at such times as set forth in the GENERAL CONDITIONS such amounts as required by the CONTRACT DOCUMENTS.
7. This AGREEMENT shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this AGREEMENT in triplicate, each of which shall be deemed an original on the date first above written.

CITY OF RIFLE

OWNER: _____

BY: _____

NAME: _____

TITLE: _____

(SEAL)

ATTEST (OWNER): _____

(Please Type)

NAME: _____

TITLE: _____

CONTRACTOR: _____

BY: _____

NAME: _____

ADDRESS: _____

(SEAL)

ATTEST (CONTRACTOR): _____

(Please type)

NAME: _____

TITLE: _____

Contingency Allowances Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

FORCE ACCOUNT ITEMS

DESCRIPTION

This special provision contains the Department's estimate for force account items included in the Contract. The estimated amounts marked with an asterisk will be added to the total bid to determine the amount of the performance and payment bonds. Force Account work shall be performed as directed by the Engineer.

BASIS OF PAYMENT

Payment will be made in accordance with PWM Section 2.30. Payment will constitute full compensation for all work necessary to complete the item.

Force account work valued at \$5,000 or less, that must be performed by a licensed journeyman in order to comply with federal, state, or local codes, may be paid for after receipt of an itemized statement endorsed by the Contractor.

<u>Force Account Item</u> <u>Amount</u>	<u>Quantity</u>	Estimated
F/A Winter Conditions/Weather Protection	F.A.	\$10,000

Force Account Descriptions

F/A Minor Contract Revisions – This work consists of minor work authorized and approved by the Engineer, which is not included in the contract drawings or specifications, and is necessary to accomplish the scope of work of this contract.

Preliminary Construction Schedule

	June '23	July '23	August '23	September '23	October '23
Bid Advertisement					
Bids Due					
Council Award					
Contract Execution					
Construction					

Certificate of Insurance

Certificates of Insurance from the contractor and subcontractor's insurance carriers shall name both the City of Rifle and CDOT as additional insured parties. Submission of Certificates of Insurance shall be provided prior to commencing any work.

Performance Bond Form

KNOW ALL MEN BY THESE PRESENTS that

Name of Contractor

Address of Contractor

a

Corporation, Partnership or Individual

Hereinafter called Principal, and

Name of Surety

Address of Surety

Hereinafter called Surety, are held and firmly bound unto

Name of Owner

Address of Owner

Hereinafter called OWNER, in the penal sum of

_____ Dollars (\$_____) in lawful money

of the United States for the payment of which sum well and truly to be made, we bind ourselves, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the _____ day of _____, _____, a copy of which is hereto attached and made a part hereof for the construction of:

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms conditions and agreements of said contract during the original term thereof, and any extensions thereof, which may be granted by the OWNER, with or without notice to the SURETY and during the one-year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall full indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PEFORMANCE BOND

PROVIDED, FURTHER, THAT THE SAID surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the terms of the contract or to the WORK to be performed hereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____

(number of copies)

counterparts, each one of which shall be deemed an original, this ____ day of _____,

_____.

Principal (signature)

By _____

Type/print

ATTEST:

Address

(Principal) Secretary

(SEAL)

Witness as to Principal

Address

SURETY: _____

By: _____

Attorney-in-Fact

ATTEST:

Witness as to Surety

Address

Address

NOTE: Date of BOND must not be prior to date of Contract. If CONTRACTOR is partnership, all partners should execute BOND. IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the WORK is located.

Payment Bond Form

The following additional provision shall constitute an amendment to Payment Bond No. _____.

PROVIDED, FURTHER, that the Principal and Surety, for value received, shall indemnify and save harmless the Owner to the extent of any payments required to be made by the Principal under the terms of the Contract. Subcontractors, material men, mechanics, and others shall have the right of action for amounts lawfully due them from the Principal or Subcontractor directly against the Principal and Surety of this bond. In the event the Principal or his Subcontractor fails to duly pay for any labor, materials, team hire, sustenance, provisions, pro-vendor, or other supplies used or consumed by such Principal or his Subcontractor in performance of the Work contracted be done, the Surety shall pay the same in an amount not exceeding the sum specified in the bond, together with interest, at the rate of eight percent (8%) per annum.

IN WITNESS WHEREOF, this Amendment is executed in four counterparts, each one of which shall be deemed an original, this _____ day of _____.

Principal

ATTEST:

(Principal) Secretary By: _____

(Address)

Witness as to Principal

(Witness as to Principal)

(Address)
Surety

By: _____
Attorney-in-Fact

Address

ATTEST:

Address

**CITY OF RIFLE
NOTICE OF AWARD**

Dated

TO: _____
Bidder

OWNER'S PROJECT NO. _____

PROJECT: 2023 Steet and Asphalt Improvements

CONTRACT FOR: FULL CONSTRUCTION SERVICES

You are notified that your Bid dated _____, 2023, for the above Contract has been considered. You are the apparent successful Bidder and have been awarded a contract for CONSTRUCTION SERVICES AS PER PLANS DATED.

Contract Price of your Contract is _____ Dollars (_____).

Three copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

You must comply with the following conditions precedent within fifteen days of the date of this Notice of Award, that is by _____, 2023 _____.

1. You must deliver to the OWNER three fully executed counterparts of the Agreement, including all the Contract Documents, Performance and Payment Bonds. Each of the Contract Documents must bear your signature on the cover.
2. You must deliver with the executed Agreement the Contract Security (Bonds)
3. You must deliver with the executed Agreement, proof of insurance coverage as specified in the General Conditions (section 2.32) and Supplementary General Conditions (paragraph 2.00). Failure to comply with these conditions within the time specified will entitle OWNER to consider your bid abandoned, to annul this Notice of Award and to declare your Bid Security forfeited. Within ten days after you comply with those conditions, OWNER will return to you one fully signed counterpart of the Agreement with the Contract Documents attached.

City Of Rifle
Owner

By: _____
Authorized Signature

Civil Engineer
Title

CITY OF RIFLE

NOTICE TO PROCEED

To: _____ Date: _____
Project: _____

You are hereby notified to commence WORK in accordance with the Agreement
dated _____, 2023, on or before _____, 2023_.
By: _____
Owner

Title: _____
ACCEPTANCE OF NOTICE Receipt of the above NOTICE TO PROCEED is hereby acknowledged

By _____
this the _____ day of _____, 2023 .
By: _____
Title: _____

General Conditions

PWM Section 2.1. ADDITIONAL INSTRUCTIONS, MODIFICATIONS AND DETAIL DRAWINGS

The engineer may, during the duration of the contract agreement and in accordance with Sections 2-16, 2-17, and 2-18 of these General Conditions, furnish the contractor written instructions, modifications or detail drawings necessary to illustrate changes in the work.

The additional written instructions and detailed drawings thus supplied shall become a part of the contract documents, without invalidating the contract agreement, and the contractor shall perform the work as modified or altered.

PWM Section 2.2. EXECUTION, CORRELATION, INTENT, INTERPRETATION AND FURNISHING OF CONTRACT DOCUMENTS

The contract documents shall be executed in triplicate by the owner and contractor.

By executing the contract agreement the contractor represents that he has visited the sight of the work, familiarized himself with the locale, subsurface and site conditions under which the work is to be performed, and correlated his observations with the available information included with and required by the contract documents.

The contract documents are complementary and what is required by any one shall be as binding as if required by all. The intention of the documents is to include all labor, materials, equipment and incidentals necessary for the proper execution and completion of the work. It is not intended that work not covered under any heading, section, class or trade of the specifications shall be supplied unless it is required elsewhere in the contract documents or is reasonably inferable there from as being necessary to produce the intended results. Words, which have well known technical or trade meanings, are used herein in accordance with such recognized meanings. Well-known technical standards are used herein in accordance with the latest edition and revisions thereof.

Written interpretations necessary for the proper execution or progress of the work, in the form of drawings or other wise, will be issued with reasonable promptness by the engineer and in accordance with any approved schedule, upon written request from the contractor. Such interpretations shall be consistent with and reasonably inferable from the contract documents and may be effected by field order.

Unless otherwise provided in the contract documents, the contractor will be furnished, free of charge, three (3) copies of drawings and specifications necessary for the execution of the work. All drawings and specifications thus furnished shall not be reused on any other project.

PWM Section 2.3. SCHEDULES, REPORTS AND RECORDS

The contractor shall submit to the owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the owner may request concerning work performed or to be performed.

Prior to the first partial payment estimate the contractor shall submit to the engineer schedules indicating:

- A. Partial payments that he anticipates he will earn during the course of the work.
- B. The order in which he proposes to carry on the work, including dates at which he will start the various parts of the work, estimated date of completion of each part; and as applicable:
 - 1. The dates at which special detailed drawings will be required from the engineer.
 - 2. The date that the contractor will submit shop drawings to the engineer.
 - 3. Respective dates that manufacturing will begin, the testing and the installation of materials, supplies and equipment.

Schedules submitted by the contractor shall reflect:

- C. The timely and orderly completion of:
 - 1. Specific portions of the work as called for in the Special Conditions.
 - 2. The work in accordance with allowed contract time.
- D. The inability to perform work on Saturdays, Sundays, holidays or between the hours of 7:00 p.m. and 7:00 a.m. on any working day, without written permission from the engineer.

- E. The safety, adequacy and efficiency of his plant equipment, tools, labor and methods of performing the work.
- F. The availability of materials, equipment and incidentals to be incorporated in the work.
- G. Maintenance and control of traffic.

PWM Section 2.4. DRAWINGS, SPECIFICATIONS, CONFLICTS AND DISCREPANCIES

The intent of the drawings and specifications is that the contractor shall furnish all labor, materials, tools, equipment, incidentals and transportation necessary for the proper execution of the work in accordance with the contract documents to complete the project in an acceptable manner, ready for use, occupancy or operation by the owner.

In case of conflict between the drawings and specifications, the specifications shall govern. Figured dimensions on drawings shall govern over scale dimensions, detailed drawings shall govern over General Drawings and Special Conditions shall govern over Standard Specifications. Any discrepancies between the drawings and specifications and site conditions; or any inconsistencies, errors, omissions or ambiguities in the drawings or specifications; or any errors or omissions in the layout as given by survey points and instructions shall be immediately reported to the engineer, in writing, who shall promptly verify and correct such inconsistencies or ambiguities in writing. Work performed by the contractor after such discovery, until authorized or corrected by the engineer, shall be done at the contractor's risk.

PWM Section 2.5. SHOP DRAWINGS AND MATERIAL SAMPLES

The contractor shall provide shop drawings, in triplicate, as may be necessary for the prosecution of the work (i.e. vault piping, electrical systems, reinforcing, non-detailed items, etc.) as required by the contract documents. The engineer shall promptly review all shop drawings. The engineer's approval of any shop drawing shall not release the contractor from responsibility for deviations from the contract documents. The approval of any shop drawing, which substantially deviates, from the requirement of the contract documents shall be evidenced by a Change Order.

When submitted for the engineer's review, shop drawings shall bear the contractor's certification that he has reviewed, calculated non-detailed dimensions, checked and approved the shop drawings and that they are in conformance with the requirements of the contract documents.

Portions of the work requiring a shop drawing or material sample submission shall not begin until the shop drawing or submission has been approved by the engineer. A copy of each approved shop drawing and each approved material sample shall be kept in good order by the contractor at the site and shall be available to the engineer.

PWM Section 2.6. MATERIALS, SERVICES, AND FACILITIES

It is understood that, except as otherwise specifically stated in the contract documents, the contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete and deliver the work within the specified time.

Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the work. Stored materials and equipment to be incorporated in the work shall be located so as to facilitate prompt inspection.

Manufactured articles, materials and equipment shall be fabricated, furnished, applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer or in accordance with the latest revision to or edition of well known technical standards (i.e. ASTM, AWWA, Colorado Department of Transportation, etc.) referred to in the Specifications or Special Conditions. Materials, supplies and equipment shall be in accordance with samples submitted by the contractor and approved by the engineer.

Materials, supplies or equipment to be incorporated into the work shall not be purchased by the contractor or the subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

PWM Section 2.7. INSPECTION AND TESTING

All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with generally accepted standards and as required by the contract documents.

The owner shall provide technical personnel, acting under the supervision of the engineer, for the inspection and testing of the work in progress to ascertain that the completed work complies in all respects with the requirements of the contract documents.

If the contract documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any work to specifically be inspected, tested, or approved by someone other than the contractor, the contractor will give the engineer timely notice of readiness. The contractor will then furnish the engineer the required certificates of inspection, testing or approval. Neither observations by the engineer nor inspections, tests or approvals by any person shall relieve the contractor from his obligations to perform the work in accordance with the requirements of the contract documents.

The engineer and his representative will at all times have access to the work whenever it is in preparation or in progress. In addition, authorized representatives and agents of any participating federal or state agency shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The contractor will provide proper facilities for such access and observation of the work and also for any inspection thereof.

If any work is covered contrary to instructions or without approval or consent from the engineer, it must if required by the engineer, be uncovered for his examination and properly restored at the contractor's expense.

If any work has been covered which the engineer has not specifically requested to observe prior to its being covered, or if the engineer considers it necessary or advisable that covered work be inspected or tested by others, the contractor, at the engineer's request, will uncover, expose or otherwise make available for observation, inspection or testing as the engineer may require, that portion of the work in question, furnishing all necessary labor, materials, tools and equipment. If it is found that such work is defective, the contractor will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If, however, such work is not found to be defective, the contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate Change Order shall be issued.

PWM Section 2.8. SUBSTITUTIONS

Whenever a material, article or piece of equipment is identified on the drawings or specifications by reference to brand name or catalog number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The contractor may request, in writing, the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the contract documents by reference to brand name or catalog number, and if, in the opinion of the engineer, such material, article, or piece of equipment is of equal substance and function to that specified, the engineer may approve its substitution and use by the contractor. Any cost differential shall be deductible from the contract price and the contract documents shall be appropriately modified by Change Order. The contractor warrants that if substitutes are approved, no major changes in the function or general design of the project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the contractor without a change in the contract price or contract time.

PWM Section 2.9. PATENTS

The contractor shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and save the owner harmless from loss on account thereof, except that the owner shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified by the owner; notwithstanding anything above to the contrary, if the contractor has reason to believe that the design, process or

product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information, in writing, to the engineer.

PWM Section 2.10. SURVEYS

The owner shall furnish, at no cost to the contractor, field electronic horizontal and vertical control data at only two control points at each site of the work at the owner's choice of location of control points. From the information provided by the owner, the contractor shall be required to make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pile locations and other working points, lines, elevations and cut sheets.

The contractor shall carefully preserve benchmarks, reference points and stakes and, in case of willful or careless destruction, he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.

The contractor shall notify the engineer, in writing, forty-eight hours in advance, of the time and place at which he will require lines and grades in order to perform the Work or obtain measurements for record and payment.

PWM Section 2.11. LICENSES, PERMITS, AND REGULATIONS

All contractors and subcontractors performing work on the project shall have a current City of Rifle Municipal or Building Contractor's License, whichever is applicable to their trade. Permits and licenses of a temporary nature necessary for the prosecution of the work shall be secured and paid for by the contractor. Permits, licenses, and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the owner, unless otherwise specified. The contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the contractor observes that the Contract Documents are at variance therewith, he shall promptly notify the engineer in writing, and any necessary changes shall be adjusted as provided in the Contract Documents for changes in the work.

PWM Section 2.12. PROTECTION OF WORK, EMPLOYEES, PUBLIC AND PROPERTY

The contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. He will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the Work and the public who may be affected thereby, all the work and all the materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including pedestrian and vehicular traffic, trees, shrubs, lawns, fences, walks, pavements, roadways, structures and utilities, shown or not shown on the plans which are not designated for removal, relocation or replacement in the course of construction.

The contractor will comply with all applicable laws, ordinances, rules, regulations and order of any private or public body having jurisdiction. He will notify owners and users of adjacent utilities when prosecution of the work may affect them. He shall keep adjacent highways, streets and private access open to traffic and free of dirt and litter resulting from handling operations. He shall take reasonable precautions to protect private property adjacent to the project from such nuisances as dust, dirt, rock and excessive noise. The contractor shall remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable, except such as may be due to errors in the Contract Documents, or caused by agents or employees of the owner.

PWM Section 2.13. EMERGENCIES

In emergencies affecting the safety of life or the work or property at the site or adjacent thereto, the contractor, without special instruction or authorization from the engineer or owner, shall act to prevent threatened damage, injury or loss.

He will give the engineer prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued

covering the changes and deviations involved, except when the emergency is attributed to acts of the contractor in performing the Work.

PWM Section 2.14. LAWS, ORDINANCES, RULES, REGULATIONS, AND ORDERS

The contractor shall keep himself fully informed of, and shall comply with all applicable laws, ordinances, rules, regulations and orders of the city, county, state, federal or public bodies having jurisdiction affecting the work. He shall provide, erect and maintain all necessary, police, watchmen, flagmen, firemen, shoring, signing, traffic devices, barricades and sanitary facilities, as required by the conditions and progress of the work, and all other necessary safeguards for safety and protection, as set forth by the United States Department of Labor, Occupational Safety and Health Administration.

The contractor must conform to the rules and regulations of the Industrial Commission of Colorado. Prior to starting excavation the contractor shall obtain from the Commission and file with the engineer a copy of his "Notice of Intent to Excavate."

The contractor shall comply with the requirements of CRS § 8-17-101 (1985 Supp.) by employing not less than 80 percent Colorado residents in the several classifications of skilled and common labor employed on the project.

The contractor shall be an equal opportunity employer and adhere specifically to all the City of Rifle resolutions and ordinances pertaining thereto.

The contractor shall protect and indemnify the owner and its agents against any claim or liability arising from or based on the violations of such ordinances, regulations, or laws, caused by the negligent actions of the contractor, his agents or employees.

PWM Section 2.15. SUPERVISION AND DISCIPLINE BY CONTRACTOR

The contractor will supervise and direct the work. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The contractor will employ and maintain on the work a qualified supervisor or superintendent who shall have been designated in writing by the contractor as the contractor's representative at the site. The supervisor shall have full authority to act on behalf of the contractor and all communications given to the supervisor shall be as binding as if given to the contractor. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

The contractor shall at all times enforce strict discipline and good order among his employees and shall avoid employing on the project anyone unskilled in the work assigned.

PWM Section 2.16. CHANGES IN THE WORK

At any time during the progress of the work, the owner, through its city manager, may order alterations or changes in the plans, specifications, character or quantity of work, without invalidating the contract agreement. When the total arithmetic dollar value of all such changes, both additive and deductive, does not exceed 25 percent of the contract price, bid unit or lump sum prices, where applicable, shall be used. Should the dollar value of the changes exceed 25 percent of the contract price, the value of the changes over 25 percent shall be based on negotiated unit or lump sum prices, where applicable.

The engineer, also, may at any time, by issuing a Field Order, make changes in the details of the work, the contractor shall proceed with the performance of any changes in the work so ordered by the engineer unless the contractor believes that such Field Order entitles him to a change in contract price or time, or both, in which event he shall give the engineer written notice thereof within fifteen days after the receipt of the ordered change, and the contractor shall not execute such changes pending the receipt of an executed Change Order or further instruction from the owner.

PWM Section 2.17. CHANGES IN CONTRACT PRICE

The contract price may be changed only by a Change Order. The value of any work covered by a Change Order or of any claim for increase or decrease in the contract price shall be determined by one or more of the following methods in the order of precedence listed below.

- A. Contract Unit Prices. If a change is ordered in an item of work covered by a contract unit or lump sum price, then an adjustment in the contract price will be made based upon the increase or decrease in quantity of the contract unit or lump sum price.
- B. Agreed Prices. Adjustments in contract price for changes ordered that are not covered by contract unit or lump sum price or exceed the limitation in Section 2.16, will be determined by agreement between contractor and owner. If unable to reach agreement, the owner may direct the contractor to proceed on the basis of extra work in accordance with Paragraph C.
- C. Extra Work. When the price for extra work cannot be agreed upon, the owner will pay for the extra work based on the accumulation of costs as provided herein below.
 1. Daily Reports by Contractor. At the close of each working day, the contractor shall submit a daily report to the engineer, together with applicable delivery tickets, listing all labor, materials, and equipment for that day, and for other services and expenditures when authorized. An attempt shall be made to reconcile the report daily, and it shall be signed by the engineer and the contractor. In the event of disagreement, pertinent notes shall be entered by each party to explain points which cannot be resolved immediately. Each party shall retain a signed copy of the report. Reports by subcontractors or others shall be submitted through the contractor.
 - a. Labor. The report shall show the names of workers, classifications, and hours worked.
 - b. Material. The report shall describe and list quantities of materials used.
 - c. Equipment. The report shall show type of equipment, size and hours of operation, including loading and transport, if applicable.
 - d. Other Services and Expenditures. Other services and expenditures shall be described in such detail as the engineer may require.
 2. Basis for Establishing Costs.
 - a. Labor. The costs of labor will be the actual cost for wages for each craft or type of workers at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, and other direct costs resulting from federal, state or local laws, as well as assessments or benefits required by lawful collective bargaining agreements. The use of a labor classification which would increase the extra work cost will not be permitted unless the contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.
 - b. Materials. The cost of materials, or equipment to be incorporated in the work, shall be at invoice or lowest current price at which such materials are locally available and delivered to the job site in the quantities involved, plus freight and delivery.

The owner reserves the right to approve materials and sources of supply, or to supply materials to the contractor if necessary for the progress of the extra work. No markup shall be applied to any material provided by the owner.

c. Tool and Equipment Rental. No payment will be made for the use of tools which have a replacement value of \$400 or less.

Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed rates approved or authorized by the Colorado Department of Transportation at the time the extra work is performed. (Dataquest-Rental Rate Blue Book)

The rental rates paid shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance and all incidentals.

Necessary loading and transportation costs for equipment used in performing the extra work shall be included.

If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to the owner than holding it at the work site, it shall be returned, unless the contractor elects to keep it at the work site at no expense to the owner.

The reported rental time for equipment already at the job site shall be the duration of its use on the extra work, commencing at the time it is first put into actual operation on the extra work.

d. Other Items. The owner may authorize other items, which may be required on the extra work. Such items include labor, services, material and equipment which are different in their nature from those required for the work and which are of a type not ordinarily available from the contractor or any of the subcontractors.

Invoices covering all such items in detail shall be submitted with the request for payment.

e. Invoices. Vendors' invoices for material, equipment rental, and other expenditures, shall be submitted with the request for payment. If the request for payment is not substantiated by invoices or other documentation, the engineer may establish the cost of the item involved at the lowest price which was current at the time of the report.

3. Markup.

a. Work by Contractor. The following percentage shall be added to the contractor's costs and shall constitute the markup for all overhead and profits:

Labor (1.32 x certified payroll) 15

Materials 15

Equipment Rental 15

Other Items and Expenditures 15

To the sum of the costs and markups provided for in this subsection, one percent shall be added as compensation for bond and liability insurance.

b. Work by Subcontractor. When all or any part of the extra work is performed by a subcontractor, the markup established herein shall be applied to the subcontractor's actual cost of such work, to which a markup of five percent on the subcontracted portion of the extra work may be added by the contractor.

4. Any other cause which, in the opinion of the engineer, entitles the contractor to additional time, including but not restricted to acts of the public enemy, acts of any government in either its sovereign or any applicable contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unforeseeable severe abnormal weather.

PWM Section 2.18. CHANGES IN CONTRACT TIME

The contract time may be changed only by a Change Order. The contractor shall notify the engineer promptly and in writing of any occurrence or conditions which, in the contractor's opinion, entitle him to an extension or reduction in contract time. Such notice shall be submitted in ample time to permit full investigation and evaluation of the contractor's claim. Failure to provide such notice shall

constitute a waiver by the contractor of any claim. The engineer shall acknowledge the contractor's notice within seven days of its receipt.

Changes in contract time for the completion of the work shall be stipulated by Change Order:

- A. When changes in the work occur.
- B. When work is suspended by the owner.
- C. For unforeseeable causes beyond the control and without the fault or negligence of the contractor, his subcontractor or supplier and which were not the result of their fault or negligence.
- D. When delays in the progress of the work caused by:
 - 1. Any act or neglect of the owner, his employees or agents.
 - 2. Other contractors employed by the owner.
 - 3. Any delay in furnishing of drawings, information or return of shop drawings by the engineer.
 - 4. Any other cause which, in the opinion of the engineer, entitles the contractor to additional time, including but not restricted to acts of the public enemy, acts of any government in either its sovereign or any applicable contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unforeseeable severe abnormal weather.

PWM Section 2.19. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

The date of beginning and the time for completion of the work are essential conditions of the contract documents and the work embraced shall be commenced on the date specified in the Notice to Proceed.

The contractor will proceed with the work at such rate of progress to insure full completion within the contract time. It is expressly understood and agreed, by and between the contractor and the owner, that the contract time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work.

A daily charge will be made against the contractor for each working day, including free time, that any work shall remain uncompleted after elapse of contract time. This daily charge, determined by the original contract amount for the project from the table herein below, will be deducted from any money due the contractor. This deduction will not be considered a penalty but as liquidated damages.

The schedule of liquidated damages set forth below is an amount, agreed to by the contractor and the City of Rifle, as reasonably representing additional construction engineering costs incurred by the City if the contractor fails to complete performance within the contract time.

The schedule of liquidated damages will be:

Original Contract Amount Daily Charge

From To and

More than Including

\$ 0 \$ 25,000 \$ 270

25,000 50,000 465

50,000 100,000 540

100,000 500,000 950

500,000 1,000,000 1,250

1,000,000 2,000,000 1,400

2,000,000 4,000,000 1,750

4,000,000 8,000,000 1,970

8,000,000 10,000,000 2,050

Over \$10,000,000 - daily charge will increase by \$100 increments for each \$2,000,000 over \$10,000,000.

Permitting the contractor to continue and finish the work or any part thereof after elapse of contract time will not operate as a waiver on the part of the City of any of its rights under the contract.

Any deduction assessed as liquidated damages under this section shall not relieve the contractor from liability for any damages or costs resulting from delays to other contractors on the project or other projects caused by a failure of the assessed contractor to complete the work according to contract times.

The contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to the following and the contractor has promptly given written notice of such delay to the owner or engineer.

A. To any preference, priority or allocation order duly issued by the owner.

B. To unforeseeable causes beyond the control and without the fault or negligence of the contractor, including but not restricted to, acts of God, or of the public enemy, acts of the owner, acts of another contractor in the performance of a contract with the owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unforeseeable severe abnormal weather.

The owner shall have the right to deduct the amount of liquidated damages from any monies due or to become due to the contractor, or to sue for and recover compensation for damages for non-performance of the work, from the contractor and his surety, as stipulated in the contract documents.

PWM Section 2.20. CORRECTION OF WORK

The contractor shall promptly remove from the premises all material and work condemned by the engineer for failing to comply with the contract documents, whether incorporated in the construction or not, and the contractor shall promptly replace and re-execute the work in accordance with the contract documents and without expense to the owner and shall bear the expense of making good all work and material of other contractors destroyed or damaged by such removal or replacement.

All removal and replacement Work shall be done at the contractor's expense. If the contractor does not take action to remove such condemned work and materials within ten days after receipt of written notice, the owner may remove such work and store the materials at the expense of the contractor.

PWM Section 2.21. SUBSURFACE CONDITIONS

The contractor shall promptly, and before such conditions are disturbed, except in the event of an emergency, which jeopardizes the safety of the project and/or persons thereon, notify the owner in writing of:

A. Subsurface or latent physical conditions at the site differing materially from those indicated in the contract documents.

B. Previously unknown physical or other conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract documents.

The engineer shall promptly investigate the conditions, and if he finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the work, an equitable adjustment shall be made and the contract documents shall be modified by a Change Order. Any claim of the contractor for adjustment hereunder shall not be all wed unless he has given the required written notice; provided that the engineer may, if he determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

PWM Section 2.22. SUSPENSION, DELAY OR INTERRUPTION OF WORK

The owner may, at any time and without cause, suspend the work or any portion thereof for a period of not more than ninety calendar days or such further time as agreed upon by the contractor, by written notice to the contractor and the engineer which notice shall fix the date on which work shall be resumed. The contractor will resume that work on the date so fixed. The contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to any suspension.

If the performance of all or any portion of the work is suspended, delayed or interrupted as a result of a failure of the owner or engineer to act within the time specified in the contract documents, or if

no time is specified, within a reasonable time, an adjustment in the contract price or an extension of the contract time, or both, shall be made by Change Order to compensate the contractor for the costs and delays necessarily caused by the failure of the owner or engineer.

PWM Section 2.23. OWNER'S RIGHT TO TERMINATE OR ABANDON WORK

If the contractor is adjudged bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the contractor or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to subcontractors or for labor, materials or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the work or if he disregards the authority of the engineer, or if he otherwise violates any provision of the contract documents, then the owner may, without prejudice to any other right or remedy and after giving the contractor and his surety a minimum of ten days from delivery of a written notice, terminate the services of the contractor and take possession of the project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the contractor, and finish the work by whatever method he may deem expedient. In such case the contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price exceeds the direct and indirect costs of completing the project, including compensation for additional professional services, such excess shall be paid to the contractor. If such costs exceed such unpaid balance, the contractor will pay the difference to the owner. Such costs incurred by the owner will be determined by the engineer and incorporated in a Change Order.

Where the contractor's services have been so terminated by the owner, said termination shall not affect any right of the owner against the contractor then existing or which may thereafter accrue. Any retention or payment of monies by the owner due the contractor will not release the contractor from compliance with the contract documents.

After ten calendar days from delivery of a written notice to the contractor, the owner may, without cause and without prejudice to any other right or remedy, elect to abandon the project and terminate the contract. In such case, the contractor shall promptly remove all of his equipment, temporary facilities and supplies from the premise, clean up the project and contiguous properties. Otherwise, the owner shall perform such housekeeping at the expense of the contractor. However, the contractor shall be paid for all work executed and any expense sustained plus reasonable profits as a result of such action by the owner.

PWM Section 2.24. CONTRACTOR'S RIGHT TO TERMINATE OR STOP WORK

If, through no act or fault of the contractor, the work is suspended for a period of more than ninety calendar days by the owner or under an order of court or other public authority, or the engineer fails to act on any request for payment within thirty calendar days after it is submitted, or the owner fails to pay the contractor substantially the sum approved by the engineer within thirty calendar days of its approval and presentation, then the contractor may, after ten calendar days from delivery of a written notice to the owner and the engineer, terminate the contract and recover from the owner payment for all work executed and all expenses sustained. In addition and in lieu of terminating the contract, if the engineer has failed to act on a request for payment or if the owner has failed to make any payment as aforesaid, the contractor may upon ten calendar days notice to the owner and the engineer stop the work until he has been paid all amounts then due, in which event and upon resumption of the work, Change Orders shall be issued for adjusting the contract price or extending the contract time, or both, to compensate for the costs and delays attributable to the stoppage of the work.

PWM Section 2.25. SUBCONTRACTING

The contractor may utilize the services of subcontractors on those parts of the work which, under normal contracting practices, are performed by specialty subcontractors.

The contractor shall not award work to subcontractor(s), in excess of fifty percent of the total contract price, without prior written approval of the owner.

The contractor shall be fully responsible to the owner for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

The contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the contractor by the terms of the contract documents insofar as applicable to the work of subcontractors and to give the contractor the same power as regards terminating any subcontract that the owner may exercise over the contractor under any provision of the contract documents.

Nothing contained in this contract shall create any contractual relation between any subcontractor and the owner.

PWM Section 2.26. CONTRACT SECURITY

The contractor shall, within seven calendar days after the receipt of the Notice of Award, furnish the owner with a Performance and Payment Bond in the penal sum of the total contract price, conditioned upon the performance by the contractor of all Change Orders, undertakings, covenants, terms, conditions and agreements of the contract documents, and upon the prompt payment by the contractor to all persons supplying labor, equipment and materials in the prosecution of the work provided by the contract documents. Such bond shall be executed by the contractor and a corporate bonding company licensed to transact such business in the State of Colorado and listed in the most recent revision of "Surety Companies Acceptable on Federal Bonds" as published in the U.S. Treasury Department Circular No. 570. The expense of the bond shall be borne by the contractor. If at any time a surety on any such Bond is declared a bankrupt or loses its right to do business in the State of Colorado, or is disapproved by the owner, the contractor shall, within ten calendar days after notice from the owner to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the owner. The premiums on such bond shall be paid by the contractor. No further partial payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable bond to the owner.

PWM Section 2.27. PARTIAL COMPLETION AND OCCUPANCY

At any time during the performance of the work that a portion of the permanent construction has been satisfactorily completed, in accordance with the contract documents, which is not required for the operation of the contractor but is needed or required by the owner, the engineer shall issue to the contractor a written notice of partial completion, and thereupon or at any time thereafter, the owner may take over, occupy, operate and use that portion of the construction therein described.

The notification of partial completion shall in no way be construed to constitute an extension in contract time for the completion of all the work or as a waiver of the right of the owner to require the fulfillment of all the terms of the contract documents. If such prior use should cause an increase in the cost of, or in the time required for, performance of the Work, as determined by the engineer, an equitable adjustment to the contractor shall be made and the contract documents modified by a Change Order.

PWM Section 2.28. MEASUREMENT OF QUANTITIES FOR PAYMENT

Measurement for pay items in the contract shall be as defined in the Measurement and Payment Section of the City of Rifle Standard Specifications for Design and Construction or as modified in the Special Conditions. The methods of measurement and computation to be used in determination of quantities; of work performed, of materials to be furnished and/or installed; will be those methods generally recognized as conforming to good engineering practice.

Sundry items, which are incident to or required in the construction of the work, but are not included as items in the Bid Schedule, shall be considered an integral part of the work to be performed. All labor, materials, etc., required for such items shall be furnished and installed, and the costs shall be included in the applicable contract unit price or lump sum amount bid.

PWM Section 2.29. SCOPE OF PAYMENT

Payment to the contractor will be made only for the actual quantities of contract items constructed and installed in accordance with the plans and specifications.

Payment made at the contract unit price or lump sum amount bid shall be full compensation for furnishing all labor, materials, equipment, appurtenances, taxes, insurance, permits and incidentals necessary to complete the work as shown on the plans and as required by the Specifications. Each item, fixture, piece of equipment, etc., shall be complete in place, operational and accepted.

No additional payment, over the amount bid, will be made for related work to any item unless specifically called for in the contract. Neither will payment be made for materials wasted, rejected or placed outside of plan limit lines.

PWM Section 2.30. PARTIAL PAYMENT AND CERTIFIED TAX REPORTS

The engineer, on or about the twenty-fifth day of the month in which work on the project is performed, shall prepare for contractor's approval, a partial payment estimate of the work performed and materials placed in accordance with the contract documents.

Not more than eighty (80) percent of the cost of materials and equipment delivered and suitably stored at or near the project site, but not incorporated in the work may be included in an estimate; provided however, the contractor furnishes invoices and supportive data establishing title in the name of the owner, to the engineer.

The amount to be retained from partial payments will be ten percent of the value of completed work, exclusive of mobilization and payment for materials on hand. When the retainment on contracts exceeding \$80,000 in value has reached five percent of the amount of the contract, no further retainment will be made. Amount of retainment will be held until such time as final payment is made with the following provision: When ninety-seven and one-half percent of the work has been completed, the engineer may, at his discretion and The amount to be retained from partial payments will be ten percent of the value of completed work, exclusive of mobilization and payment for materials on hand. When fifty percent of the work required by contracts exceeding \$150,000. has been performed, no further retainment will be made if in the opinion of the City, satisfactory progress is being made on the work. Amount of retainment will be held until such time as final payment is made with the following provision: When ninety-seven and one-half percent of the work has been completed, the engineer may, at his discretion and with the consent of the Surety, reduce the retained amount to twice the value of the work remaining to be done. Any amount retained under this provision shall be subject to the requirements of Colorado Revised Statute § 24-91-103.

Earnings so retained on contracts exceeding \$150,000. in value may be withdrawn by the contractor provided the contractor provides the City with an irrevocable letter of credit in a form and from a financial institution acceptable to the owner. Any amounts so retained by the owner under this provision shall be subject to Colorado Revised Statute. § 24-91-105.

The contractor upon receipt of each partial payment estimate shall either indicate his approval by signing and returning a copy to the engineer, or return the estimate unsigned and indicate in writing his reason for refusing payment.

The owner, within fifteen- (15) days of presentation to the engineer of an approved partial payment estimate, shall pay the contractor the amount due thereon.

Upon receipt from the contractor of an approved designated semifinal estimate, as prepared by the engineer:

- A. The contractor shall, in writing, request the engineer to make a semifinal inspection in preparation for final acceptance of the work by the owner.
- B. The contractor shall prepare and furnish the engineer certified city and county sales and use tax reports covering the equipment and materials incorporated in the work.

The engineer, upon receipt of written request for semifinal inspection, shall promptly make said inspection of the work and issue to the contractor a written notice advising him of any deficiencies, corrective measures or clean up that he must complete prior to preparation of the final payment request.

All work covered by partial payment made shall thereupon become the sole property of the owner, but this provision shall not be construed as relieving the contractor of the sole responsibility for the care and protection of the work upon which payments have been made or the restoration of any

damaged work, or as a waiver of the right of the owner to require the fulfillment of all terms of the contract documents.

PWM Section 2.31. FINAL PAYMENT REQUEST, ACCEPTANCE AND RELEASE

Upon completion of the work, cleanup of the project site, the engineer's receipt from the contractor in triplicate of certified tax receipts, the engineer, within ten calendar days thereafter shall:

- A. Prepare a final payment request, for contractor's approval, showing the total value of the work completed in accordance with the contract documents and as modified by any Change Orders, less the value of:
 1. Partial payments previously made by the owner to the contractor.
 2. Retention of any claims, on file with the owner, against the contractor
 3. Estimated costs of completing any incomplete or unsatisfactory items of the work.
 4. Payments advanced by the owner, to subcontractors, material and equipment suppliers or others which are known by the contractor to have been made but not previously accounted for.
 5. Liquidated damages not previously paid to the owner by the contractor.
- B. Advise the owner and contractor by written notice that:
 1. The work has been inspected and accepted by him under the conditions of the contract documents.
 2. The work, effective the date of the notice, is placed under warranty, at the contractor's expense, for a period of one year.
 3. The entire balance shown on the final payment request, as prepared by the engineer, is due and payable within thirty calendar days from date of approval thereof by the contractor.

Upon approving the final payment request, as prepared by the engineer, the contractor by such act, indemnifies and saves the owner and his agents harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, material men and furnishers of machinery and parts thereof, equipment, tools, and all supplies incurred in the furtherance of the performance of the work. The contractor shall, at the owner's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged or waived. If the contractor fails to do so, the owner may, after having notified the contractor, either pay unpaid bills or withhold from the contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, in accordance with the terms of the contract documents, but in no event shall the provisions of this sentence be construed to impose any obligations upon the owner to either the contractor, his surety, or any third party. In paying any unpaid bills of the contractor, any payment so made by the owner shall be considered as a payment made under the contract documents by the owner to the contractor and the owner shall not be liable to the contractor for any such payments made in good faith.

The acceptance by the contractor of final payment shall be and shall operate as a release to the owner of all claims and all liability to the contractor other than claims in stated amounts as may be specifically excepted by the contractor for all things done or furnished in connection with this work and for every act and neglect of the owner and others relating to or arising out of this work. Any payment, however, final or otherwise, shall not release the contractor or his sureties from the warranty period or any other obligations under the contract documents or the Performance and Payment Bond.

In the event the owner fails to make final payment as herein provided, there shall be added daily interest at the rate of six percent per annum, commencing on the first day after said payment is due and continuing until the payment is delivered or mailed to the contractor.

PWM Section 2.32. INSURANCE

The contractor shall at its own expense keep in full force and effect during the term of this contract insurance as follows:

The contractor shall secure and maintain statutory workmen's compensation.

The contractor agrees to secure, at his own cost, a policy or policies of insurance sufficient to insure against the liability assumed by the contractor pursuant to the provisions of paragraph 2.36 of these General Conditions. The contractor's insurer must be rated "B+" or better, according to Best's Key Rating Guide and must be admitted to do business in the State of Colorado. The contractor shall provide the owner with a certificate of insurance from a properly qualified representative of the insurer, that any policy purchased pursuant to this contract complies with the conditions required by this contract. The certificate of insurance must show current name and address of the insured(s) named in the policy. The contractor shall not commence any work under this contract, and shall not allow any subcontractor or any officer, employee, or agent of the contractor or any subcontractor to commence any work under this contract, until any such certification has been received and approved by the owner.

The contractor shall not be relieved of any liability assumed pursuant to the foregoing paragraph by reason if its failure to secure insurance as required by this contract or by reason of its failure to secure insurance in sufficient amounts, of sufficient durations, or of sufficient types to cover such liability. The required policy shall meet the following conditions:

- A. The policy limits shall be as follows:
 - 1. The limit for an injury to one person in any single occurrence shall be no less than \$1,000,000, and the limit for an injury to two or more persons in any single occurrence shall be no less than \$2,000,000. Costs of defense shall not be included within such limits or, if they are so included, the minimum limits shall be \$1,000,000 combined single limits.
 - 2. The general aggregate limit shall be unlimited or at least \$2,000,000.
- B. The policy shall include the owner as an additional insured. The parties hereto understand and agree that the owner is relying on and does not waive or intend to waive by this contract, any provision hereof, including the provisions of this paragraph, the monetary limitations (presently \$1,000,000 per person and \$2,000,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, ☐ C.R.S. 24-10-101, et seq., as from time to time amended, or otherwise available to the owner.
- C. The insurer shall give the owner notification of any cancellation or termination by refusal to renew the policy or any change in coverage of the policy in the manner provided by law. If no such notification is provided by law, the insurer shall give the owner at least thirty (30) days prior written notification of any cancellation or termination by refusal to renew the policy or of any change in coverage of the policy, unless cancellation or termination is for non-payment of premium, in which case, the industry standard of ten (10) days prior written notification shall apply.
- D. The contractor shall be solely responsible for any deductible losses under the policy.
- E. If the policy is a claims made policy, the policy shall provide the contractor the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two years. The contractor agrees to purchase such an extended reporting period should the policy be cancelled or terminated.
- F. If the policy is a claims made policy, the policy shall give the owner the right to purchase the extended reporting period described in paragraph E above if the contractor fails to purchase such an extended reporting period as required by this contract. The owner's exercise of such right shall not relieve the contractor of any liability for its failure to purchase such an extended reporting period as required by this contract.
- G. If the policy is a claims made policy, the retroactive date of any renewal of such policy shall be no later than the date this contract is signed by the parties hereto.
- H. If the contractor purchases a subsequent claims made policy in place of any prior policy, the retroactive date of such subsequent policy shall be no later than the date the contract is signed by the parties hereto.

The contractor shall secure and maintain, at his own expense, if applicable or called for in the Special Conditions, the following insurance coverage:

Fire, extended coverage and vandalism insurance on the project to the full insurable value thereof for the benefit of the owner, the contractor and subcontractors.

"All Risk" type builder's risk insurance for work to be performed. Unless otherwise authorized by the owner, the amount shall not be less than the contract price totaled in the Bid Proposal. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft and smoke during the contract time and until the work is accepted by the owner. The policy shall name as the insured the contractor, the owner and their designated agents.

Special Comprehensive General Bodily Injury and Property Damage for the period of time that work being performed is encroaching on property owned or controlled by individuals, partnerships or corporations such as irrigation companies and railroads, state or federal agencies, and to limits set forth in their permit. The policy shall be issued to the permittee and name as the insured the contractor, the owner and their designated agents.

The contractor must comply with the owner's requirements for filing certificates of insurance, as determined by the Risk Management Division. A certificate of insurance acceptable to the Risk Management Division must be provided at the time the contract is executed by the parties hereto unless both parties arrange otherwise.

The contractor is responsible for submitting certificate(s) of insurance, subject to the insurance requirements described above, for all subcontractors. All certificates of insurance are subject to periodic verification and approval by the owner.

PWM Section 2.33. SEPARATE CONTRACTS

The owner reserves the right to let other contracts in connection with this project, or contiguous thereto. The contractor shall afford other contractors, utility companies or owner's forces reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs. If the proper execution or results of any part of the contractor's work depends upon the work of any other contractor, the contractor shall inspect and promptly report to the engineer any defects in such work that render it unsuitable for such proper execution and results.

If the performance of additional work by other contractors, utility companies or the owner is not noted in the contract documents prior to the execution of the contract, written notice thereof shall be given to the contractor by the engineer, prior to starting any such additional work. If the contractor believes that the performance of such additional work by the owner or others entitles him to a change in contract price or time, or both, he may, by written notice to the engineer, request a Change Order as provided under Changes in the Work.

PWM Section 2.34. HOUSEKEEPING AND CLEANUP

At all times during the progress of the work the contractor, at his expense, shall maintain the site, storage yard, adjacent properties, both public and private, policed and free of litter or trash. All material and equipment to be incorporated in the work shall be stored in a neat appearing manner and protected from damage or the elements until accepted in accordance with the contract documents.

Prior to final payment, the contractor, at his expense, shall remove from the project site and from contiguous private and public property, all temporary structures, equipment, rubbish and waste materials resulting from his operations. He shall clean up, police around and over all facilities that the owner will acquire maintenance thereof.

Disposal areas for waste material, from the contractor's operation, shall be those areas that comply in every way with local ordinances and are approved by the engineer.

PWM Section 2.35. ASSIGNMENT

Neither the contractor nor the owner shall sell, transfer, sublet as a whole, or otherwise dispose of the contract or any portion thereof without the written consent of the other and its surety; nor shall the contractor assign any monies due or to become due to him thereunder, except to a bank or financial institution acceptable to the owner.

PWM Section 2.36. INDEMNIFICATION

The contractor agrees to indemnify and hold harmless the owner, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims and demands on account of personal injuries, including without limitation worker compensation claims and death claims, or property loss or damage, or any other loss of any kind whatsoever, which arises out of or are in any manner connected with this contract, whether or not such injury, loss, or damage is caused by, or is claimed to be caused by, the act, omission, negligence or other fault of the contractor, any employees of the contractor, or any other person or entity; or by accident; or by any other cause. Nothing herein is intended to constitute a covenant, promise, or agreement to indemnify and hold harmless the owner from any liability or damages directly caused by or attributable to the owner's own negligence. The contractor agrees to investigate, handle, respond to, provide defense for, and defend against, any liability, claims, or demands arising from, connected with, or related to the contract at the sole expense of the contractor regardless of whether the liability, claim, or demand is related to the owner's own negligence and the contractor further agrees to bear all other costs and expenses, related thereto, including court costs and attorney fees, whether or not the claim or claims alleged are groundless, false, or fraudulent. Nothing herein is intended to be, or may be construed as, a waiver or the immunities, protections, or limitations on damages provided to The City of Rifle by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 through 24-10-120, as it may from time to time be amended.

PWM Section 2.37. ENGINEER'S STATUS AND DECISIONS

The engineer shall act as the owner's representative during the construction period. He shall decide questions which arise in the execution of the work. He shall perform technical inspections in the field, in laboratories, at factories, at sources of supply and wherever he feels the necessity to determine the quality and acceptability of material and equipment furnished and work performed. He shall reject all material, equipment and work which fails to conform to the specifications. He shall stop the performance of the work whenever such stoppage may be necessary to insure the proper execution of the contract documents. He shall determine the quantity of work to be paid for and prepare all partial payments, estimates and the final payment request for submittal to the owner after obtaining the contractor's approval thereof.

The engineer will not be responsible for the construction means, controls, techniques, sequences, procedures or construction safety.

The engineer shall, within a reasonable time after presentation, make decisions by written notice on all claims of the owner or the contractor on all matters relating to the execution and progress of the work or the interpretation of the contract documents.

PWM Section 2.38. LAND, RIGHTS-OF-WAY, EASEMENTS AND ENCROACHMENTS

Prior to issuance of Notice to Proceed, the owner shall obtain all land and rights-of-way necessary for carrying out and for the completion of the work to be performed pursuant to the contract documents, unless otherwise stated in the Special Conditions or mutually agreed to.

The owner shall indicate on the drawings or provide to the contractor information which delineates and describes the lands owned, rights-of-way and easements acquired, and encroachments over lands upon which the work is to be performed.

Delays in furnishing land for the work by the owner may be deemed proper cause for a change in the contract price, contract time, or both.

The contractor shall provide, at his own expense and without liability to the owner, any additional land and access thereto that the contractor may desire for temporary construction facilities, or for storage of materials and equipment.

PWM Section 2.39. GUARANTY AND WARRANTY

The contractor shall guarantee all material and equipment incorporated in, and warrant all workmanship on, the project for a period of one year from the date of written notice of acceptance of the project or portions thereof. The contractor shall within forty-eight hours after notification from the owner, subsequently verified by written notice, make all needed repairs and corrections which develop or result from defective workmanship, materials or equipment.

In the event the contractor should fail to make such repairs, adjustments, or performs other necessary work required to correct any deficiencies, the owner may do so and charge the contractor the cost thereby incurred. The Performance and Payment Bond shall remain in full force and effect through the guarantee and warranty period.

PWM Section 2.40. TAXES

The contractor will pay all applicable sales, use and other similar taxes required by the laws of the State of Colorado. When taxes are due, the developers, other responsible parties, and/or their subcontractors, prior to requesting final warranty on their project shall furnish the engineer, in triplicate on the City form, certified receipts of sales, use and other similar taxes, required by law, paid on all materials and equipment incorporated in or used in the performance of the work.

Notwithstanding the above, the contractor shall obtain from the Colorado Department of Revenue a Certification of Exemption indicating, where applicable, that the contractor's purchase of construction or building materials is for use in the building, erection, alteration or repair of public works owned and used by the City of Rifle, in its governmental capacity. The contractor shall file with the engineer a certified copy of the Certification of Exemption, prior to commencing Work.

Where a project is exempt from such tax, the amount of such tax shall not be included in any bid proposal submitted to the City.

PWM Section 2.41. DESIGNING AND PERFORMING WORK WITHOUT A CONTRACT AGREEMENT

All property owners, individuals, partnerships or corporations which engage in the subdividing or improving of land, or in the design or construction of the Work, ultimately to be maintained, operated, occupied or owned by the City of Rifle, other than those directly contracting with the City, shall adhere to this Public Works Manual, Design and Construction of Public Improvements to which these General Conditions are a part.

No portion of the work shall be performed until the engineer has approved the drawings pertaining there to, and then only by a contractor that is licensed and bonded to the City of Rifle.

Those who are responsible for, or cause the work to be performed, and those who actually perform the work, will be considered, for purposes of these General Conditions and Standard Specifications, as having executed a contract agreement, as contractor, with the City of Rifle as owner, even though no agreement exists. As such, they shall comply with all the technical and performance provisions of these Specifications, be subject to inspection and the directives of the engineer.

PWM Section 2.42. CLOSEOUT

To close out a project or development, several items need to be taken into account by the Contractor, Engineer and by the Owner. Several of these items may have been initiated prior to or during the work.

The Contractor of the work shall notify the Engineer and the Owner in writing that he has reached "Substantial Completion" and include a list of work yet to be completed or corrected. If requested by the Engineer, closeout of areas or portions of work may be allowed by the Owner.

The Engineer, along with the Owner's representative, shall inspect the work to determine if it is substantially complete. If it is substantially complete, a "Certificate of Substantial Completion" will be issued by the Engineer along with a "Punch List" of items to be completed or corrected, to the Contractor and the Owner.

The Contractor shall complete and/or correct the items listed on the punch list, or any other item that becomes known, and again notifies the Engineer and Owner in writing that the work is ready for final inspection. At this time, the Contractor may submit his application for final payment to the Engineer.

The Engineer along with the Owner's representative will make a final inspection. If the work is found acceptable and complete to the satisfaction of the Owner, a meeting will be scheduled to finalize all other items due. Should the Contractor fail to complete and/or correct all punch list items required by the Owner, the Contractor shall pay for additional "Final Inspections" by the Engineer at the Engineer's current rates. If the Contractor has any question with regard to any

items found on the punch list, he shall request clarification from the Engineer prior to final inspection.

Prior to release of final payment, a meeting (referred to in the previous paragraph) shall be held to collect from the Contractor and/or the Engineer, for the Owner, the following items:

1. Outside Inspection Certificates, as applicable,
2. Materials Certificates of Compliance,
3. Equipment and Material guarantees,
4. Contractors one-year (or longer, if required) guarantee or warranty using Owner forms,
5. Operation & Maintenance Manuals and Parts list, as applicable,
6. Receipts for Materials delivered to the Owner,
7. Miscellaneous Keys, Tools, etc.
8. Final Application for Payment,
9. Consent of Surety to Final Payment,
10. Contractor's Affidavit of Release of Liens,
11. Project Record Drawings (As-Built),
12. Quitclaim deed from developer conveying any interest it has in the public improvements to the Owner using Owner format,
13. Bill of Sale conveying all public improvements to the Owner free and clear of liens and encumbrances using Owner format,
 1. Final Payment Amount,
 2. Contractor acknowledgement of Date of Warranty, and
 3. All other documentation.

And the Owner will provide to the Engineer:

1. Public Works Director Certification that the work has been constructed in conformance with the plans and specifications.
2. A letter informing the financier to release the Letter of Credit.

Inspection certificates shall be submitted (Number 1, in the list above) from any State or Other governing body having jurisdiction, such as State electrical certification that the work is in strict conformance with applicable codes.

The Contractor shall remedy any defects due to faulty materials or workmanship and pay for damage to other work resulting there from, for a period of one year (or longer, if required) in accordance with Section 2.39 herein. A written warranty based on the provisions of Section 2.39 shall be provided to the Owner, dated as agreed with the Owner, properly signed and notarized and addressed to the Owner.

All keys to doors, panels or switches, special tools required for equipment and spare parts or supplies, as applicable, shall be accounted for and turned over to the Owner.

The Owner, will initiate action to advertise in the local newspaper regarding final payment to the Contractor and determining the date for payment.

Project Record Drawings (As-Built) shall consist of one blackline copy of the completed project work with changes clearly marked and clouded and a CD-ROM. The CD-ROM disk shall include the marked up sheets in individual PDF format files and the electronic line work in the latest AutoCad drawing format. The electronic line work should be supplied such that all improvements are located on the Rifle grid i.e. UTM Z13 in metric (meter) scale. All drawings (electronic and hardcopy) should be clearly and neatly marked "RECORD DRAWING" in ½" block letters in the lower right quadrant of the sheet.

Item 14, above, shall be broken down into 1) cost of water system per individual street (including pipe, fittings, valves, services, hydrants, etc.), 2) sewer system (including pipe, services, manholes, etc.) per individual street, 3) storm drain and culvert system per individual street (including pipe, inlets, boxes, flared ends, manholes, etc.) and 4) individual street costs (including signals, signs, striping, asphalt, road base, curb, gutter sidewalk, grading, etc.).

PWM Section 2.43. RIGHTS AND REMEDIES

The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not as a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law, including but not limited to tort remedies. The Contractor

agrees that the economic loss rule as set forth in the Town of Alma v. Azco Construction, Inc., 10 p.3d 1256 (Colo. 2000) shall not serve as a limitation on the Owner's right to pursue tort remedies in addition to other remedies it may have against the Contractor. Such rights and remedies shall survive the acceptance of the Work or any termination of the Contract Documents. Contractor further specifically

waives all provisions of Chapter 8 of Article 20 of Title 13, Colorado Revised Statutes, regarding defects in the Work under the Contract. In the event any portion of this provision is deemed un-enforceable by a court of competent jurisdiction, the remaining portions of this provision shall survive.

Supplementary General Conditions

1.00 GENERAL

These Supplementary General Conditions amend or supplement the Standard General Conditions of the Construction Contract and other provisions of the Contract Documents as indicated below. All provisions, which are not so amended or supplemented, remain in full force and effect.

2.00 INSURANCE

The Contractor shall provide and maintain adequate Workmen's Compensation Insurance for all labor on the Work under this Contract. Protection under said policies shall extend to the Owner and Contractor. Certifications of such insurance shall be filed with the Owner prior to commencement of operations. Proof of carriage of insurance by subcontractors shall also be furnished.

2.01 Unless otherwise provided in these Supplementary General Conditions, Contractor shall purchase and maintain property insurance upon the Work at the site to the full insurable value thereof (subject to such deductible amounts as may be provided in these Supplementary General Conditions or required by Law). This insurance shall include the interests of Owner, Contractor and Subcontractor in the Work, shall insure against the perils of fire and extended coverage, shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and such other perils as may be provided in these Supplementary General Conditions, and shall include damages, losses and expenses arising out of, or resulting from, insured loss or incurred in the repair or replacement of any insured property (including fees and charges of engineers, architects, attorneys and other professionals). If not covered under the "all risk" insurance, or otherwise provided in these Supplementary Conditions, Contractor shall purchase and maintain similar property insurance on portions of the Work stored on or off the site or in transit when such portions of the Work are to be included in an *Application for Payment*. Such coverage shall be provided until the issuance of a certificate of substantial completion. The policies of insurance required to be purchased and maintained by Contractor in accordance with section 2.32 of the Rifle Public Works Manual shall contain a provision that the coverage afforded will not be canceled or materially changed until at least thirty (30) days prior written notice has been given to Owner.

2.02 All equipment shall be covered under the insurance requirements of the Contractor as stated under 2.01 above.

2.03 Coverage Required (minimum):

A. General Liability

1. Limits

- | | | |
|----|-------------------|--|
| a. | Bodily Injury - | \$1,000,000 each person
\$2,000,000 each occurrence |
| b. | Property Damage - | \$1,000,000 each occurrence
\$2,000,000 aggregate |

2. Coverages

- | | |
|----------|--------------------------------------|
| <u>x</u> | Comprehensive Form |
| — | Premises-Operations Explosion |
| — | Collapse Hazard |
| — | Underground Hazard |
| <u>x</u> | Products/Completed Operations Hazard |
| <u>x</u> | Contractual Insurance |
| <u>x</u> | Broad Form Property Damage |
| <u>x</u> | Independent Contractors |
| <u>x</u> | Personal Injury |

B. Automobile Liability

1. Limits

- | | | |
|----|-------------------|---------------------------|
| a. | Bodily Injury - | \$250,000 each person |
| b. | Property Damage - | \$500,000 each occurrence |
| c. | Combined - | \$600,000 each occurrence |

2. Coverages
 - x Comprehensive Form
 - x Owned
 - x Hired
 - x Non-Owned

2.05 Certificates of Insurance from the contractor and subcontractor's insurance carriers shall name both the City of Rifle and CDOT as additional insured parties. Submission of Certificates of Insurance shall be provided prior to commencing any work.

3.00 TAX EXEMPTION.

Owner's tax-exempt number, when applicable, to be used as part of this project, will be provided to the successful bidder. The successful bidder shall then apply for sales tax exemption before working on a City Project. See www.revenue.state.co.us/PDF/dr0172.pdf. Subcontractors shall be provided copies of the contractors sales tax exemption certificate to avoid paying taxes when purchasing materials to be incorporated in the City project. Therefore, these taxes should not be included in the cost for performing the work.

4.00 FINAL PAYMENT.

Lien waivers from all prime Contractors and Subcontractors to be provided prior to issuance of final payment.

5.00 COMPLETION TIME.

	June '23	July '23	August '23	September '23	October '23
Bid Advertisement					
Bids Due					
Council Award					
Contract Execution					
Construction					

6.00 OWNER'S REPRESENTATIVE.

Unless provided for otherwise in writing by the Owner, any on-site Inspector or Representative of the Owner shall not have the authority to render any binding decisions nor make any binding judgments to the Contractor pertaining to any work which may change the Contract price or time of completion, or to the quality of Work, or to the manner in which the Work is being performed. The Representative of the Owner shall serve as a means of communication between the Owner and the Contractor and shall monitor the Work for the Owner. Any communication given to the Representative of the Owner by the Contractor shall be considered as being given to the Owner.

7.00 SAFETY REQUIREMENTS.

Nothing in the Contract Documents shall be construed as relieving the Contractor from protecting all property and persons or from strictly adhering to all applicable local, state and federal safety requirements. Where there is a conflict between the Contract Documents and any applicable safety requirement, the safety requirement shall take precedence.

8.00 LAWS AND ORDINANCES.

The Contractor shall at all times observe and comply with all federal, state and local laws, ordinances and regulations which in any manner affect the contract or Work, and shall indemnify and save harmless the Owner and the Owner's agent against any claim arising from the violations of any such laws, ordinances and regulations, whether by the Contractor or his employees.

If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules or regulations, and without notice to the Engineer, he shall bear all costs arising there from.

9.00 WAIVER.

It is expressly understood and agreed that any waiver granted by the Engineer or Owner of any term, provision or covenant of this Contract shall not constitute a precedent nor breach of the same or any other terms, provisions or covenants of this Contract. Neither the acceptance of the Work by the Owner nor the payment of all or part of the sum due the Contractor hereunder, shall constitute a waiver by the Owner of any claim which the Owner may have against the Contractor or otherwise.

10.00 PROTECTION OF PUBLIC UTILITIES AND OTHER ADJOINING PROPERTY.

The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to other property at the site or adjacent thereto, and he shall be liable for any and all claims for such damage on account of his failure to fully provide such protection.

The Contractor shall notify all public utility companies at least forty-eight (48) hours prior to commencement of any Work in the vicinity of the utilities. No Work shall commence until the utilities have been located and staked by the utility company or written consent to proceed has been given by the Owner. If utility service must be interrupted, the Contractor shall notify the head of local administrative services (i.e., City Manager, Mayor, and City Clerk), as applicable, and utility users affected by the interruption of service at least twenty-four (24) hours prior to interruption. Notice shall consist of publication in a local newspaper and/or announcement on local radio or television stations as determined by the Owner.

11.00 PROJECT PHOTOGRAPHS/VIDEOS

It is the Contractor's responsibility to take a sufficient number of pre-construction photographs/videos to resolve any disputes, which may arise regarding the conditions prior to and subsequent to construction. The Contractor shall provide copies of the pre-construction photographs/videos to the Owner prior to the start of work. Any potential problems should be identified at that time.

Progress and record photographs/videos shall be provided by the Contractor as appropriate to resolve any disputes and to completely document the work performed as a supplement to the Record Drawings. In general, the photographs/videos should be sufficient to show that all work was properly completed in accordance with the plans and specifications.

12.00 DAMAGE TO CONSTRUCTION.

The Contractor shall safeguard, until all work embraced by this Contract is formally accepted, all construction, both complete and incomplete, against damage and destruction, and should damage result, he will be required to reconstruct or repair it at his expense in a manner conforming to the Plans and Specifications, reconstruction shall be in a manner suitable to the Engineer.

13.00 PRE-CONSTRUCTION CONFERENCE.

A pre-construction conference shall be held within fifteen (15) days after the *Notice To Proceed*, at the Owner's place of business. The purpose of such meeting shall be to explain as required to the Contractor, the requirements of the Contract Documents, the procedures to be used in the administration of the Contract, the requirements of any funding Agencies, and to discuss any item of concern to the Work. The Contractor, Owner and Engineer, or authorized representative of each, shall be required to attend such meeting as a condition of the Contract.

14.00 BIDDER EXPERIENCE.

Upon request, bidder to provide documentation of relevant experience with reference to a minimum of three (3) projects of similar scope and size. Statement shall include equipment and manpower available for utilization on project. Supervisory personnel for project shall be provided. Qualification information shall be submitted as stated in section 3.0 of the "Instructions to Bidders".

16.00 PERFORMANCE AND PAYMENT BONDS.

Payment and Performance Bonds are required (section 2.26 of the general conditions and Agreement Documents section of the Project Manual).

17.00 WARRANTY INSPECTION.

At the Owner's discretion, a warranty inspection will be held during the sixty (60) calendar days prior to the expiration of the two-year warranty period. Contractor agrees to provide an authorized representative at such inspection to represent Contractor's interests. All defects identified during the inspection shall be corrected at Contractor's expense at direction of Owner in a timely manner. Corrective work shall be commenced within ten (10) calendar days after written notice to Contractor.

18.00 SOILS INVESTIGATION

Where available, applicable portions of subsurface soils investigations are included as an attachment to these Specifications). Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not made a part of the Contract Documents. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any claim against OWNER, ENGINEER or any of ENGINEER'S Consultants with respect to: the completeness of such reports and drawings for CONTRACTOR'S purposes, including, but not limited to, any aspect of the means, methods, techniques, sequences and procedures of construction and programs incident thereto, or other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings, or any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such data, interpretations, opinions or information. Contractor shall perform such investigations as he may deem necessary to determine his bid.

19.00 JOB SITE RESTRICTIONS.

19.01 Salvage. All materials to be removed from the project site or demolished on site shall be disposed of by the Contractor off the project site within five days.

19.02 Staging Area. Staging may utilize right of way if the contractor provides adequate warning cones, reflectors, etc. Contractor takes sole responsibility for leaving any equipment or materials in the City right of way.

19.03. Disposal Area. Owner's property is not available for a Contractor disposal area.

19.04 Working Hours. Work will normally be permitted after 7:00 a.m. and before 5:00 p.m. Monday through Friday. Other work hours must be approved by Engineer in writing. Work may be permitted on Saturday with 48 hours prior notification given to the Owner's representative.

20.00 ARBITRATION.

Anything in the General Conditions of the Contract Documents notwithstanding the choice to submit any dispute to binding arbitration shall be solely that of the Owner and no other party to this Contract shall have the right to submit any controversy to binding arbitration.

21.00 PAYMENT RETAINAGE.

Retainage on Pay Estimates shall be five (5) percent.

22.00 REFERENCE TO OWNER.

The City of Rifle will be the Owner of this project and will be referred to as Owner in the Agreement.

23.00 NOTIFICATION TO ADJACENT PROPERTY OWNERS.

Contractor shall provide constant communication with adjacent property owners to schedule and discuss impacts the contractor's work will have on their access and utility service.

Access to property owners adjacent to the work site shall be open at all times unless other arrangements are made a minimum of twenty-four (24) hours in advance.

24.00 DRAWING ACCURACY AND EXISTING UTILITIES.

Contractor shall provide constant communication with adjacent property owners to schedule and discuss impacts the contractor's work will have on their access and utility service.

As such, information relating to locations, sizes, or elevation of existing facilities should be considered only approximate. It shall be the responsibility of the Contractor to contact the appropriate representatives of utility companies, or utility locate companies, a minimum of 48 hours prior to the commencement of Work which might affect utility installations and to secure from such representatives information as to accurate location, size and type of such installations. The Contractor shall assume all responsibility for protection, repair and relocation of all such items encountered. Should repair or replacement be required, work shall be performed according to the requirements of the respective utility company.

25.00 ABBREVIATIONS.

Whenever the following abbreviations are used in these Specifications or on the Drawings, they shall be construed the same as the respective expressions represented:

AASHO or	
AASHTO	American Association of State Highway Officials
ACI	American Concrete Institute
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute, Inc.
AWWA	American Water Works Association
CDOT	Colorado Department of Transportation
CDPHE	Colorado Department of Public Health & Environment
CRSI	Concrete Reinforcing Steel Institute
CS	Commercial Standard, U.S. Department of Commerce
FED. SPEC.	Federal Specifications
NEC	National Electric Code
NEMA	National Electrical Manufacturers Association
OSHA	Occupations Safety and Health Act (Federal and/or State)
SSPC	Steel Structures Painting Council
UBC	Uniform Building Code
UL	Underwriters Laboratories, Inc.

25.01 Standard Specifications Reference. Where reference is made in these Specifications to other Standard Specifications, it is the intent that the latest available revisions of the CDOT Standard Specifications referenced be used. All portions of the CDOT Standard Specifications referenced shall be considered a part of these Specifications unless specifically superseded herein.

In case of conflict between the drawings and specifications, the specifications shall govern. Figured dimensions on drawings shall govern over scale dimensions, detailed drawings shall govern over General Drawings and Special Conditions shall govern over Standard Specifications.

Any discrepancies between the drawings and specifications and site conditions; or any inconsistencies, errors, omissions or ambiguities in the drawings or specifications; or any errors or omissions in the layout as given by survey points and instructions shall be immediately reported to the engineer, in writing, who shall promptly verify and correct such inconsistencies or ambiguities in writing. Work performed by the contractor after such discovery, until authorized or corrected by the engineer, shall be done at the contractor's risk.

26.00 PERMITS AND EASEMENTS.

The Contractor shall be responsible for securing any and all access rights he may require for construction convenience with private individuals and landowners. The Contractor shall provide the Engineer evidence of agreements for such access rights. All other permits required should be secured prior to commencement of Work at the Contractor's own expense.

The successful Contractor will be required to obtain a City of Rifle Contractor's license for construction operation. Proof of insurance shall be required.

27.00 SUBSTITUTION OF MATERIALS.

At no time shall materials be substituted for those shown on the Drawings or called for in the Specifications unless written approval is obtained from the Engineer in writing prior to construction. Any deviation from the Drawings and Specifications shall be accompanied by a written directive of the Engineer or his representatives. (See Article 6, General Conditions).

28.00 CONTROLLED AREA OF WORK.

The Contractor shall confine all the construction work and all related activities to the public roadways, utility easements, or construction areas designated by the Engineer. Access and egress to the work area shall be minimized to specific points.

29.00 INTERPRETATION OF ESTIMATED QUANTITIES.

Bidders are cautioned that the estimated quantities in the Bid Schedule are approximate only and are prepared for the comparison of bids. The basis of payment will be actual quantities of work performed and accepted or as stated in the Measurement and Payment section of each specification section. Prior to mobilization the contractor shall present their verification of quantities and final work plan for all aspects of work.

30.00 TEMPORARY FACILITIES.

The Contractor, at his expense, shall provide all necessary temporary facilities for his own convenience or to meet local, state, or federal requirements, including, but not limited to, potable water, sanitary waste facilities, power, telephone, etc. (See Article 6, General Conditions).

31.00 CLEAN-UP.

The Contractor will be responsible for immediately cleaning the job site during and after construction. A continuing effort shall be made through the duration of the contract to keep all areas clean and free of all rubbish, removed vegetation, construction waste, employee waste, debris and other objectionable materials generated from the project. All materials as part of this work shall be disposed off site in an acceptable manner. Final clean-up must be approved and accepted by the Owner before the contract may be considered complete.

32.00 MEASUREMENTS AND PAYMENT.

Payment for work done shall be as defined in *Bid Schedule*. Payment shall be complete compensation for the work unit completed and shall consist of furnishing and installing all materials, plant, equipment, labor and other items related to the work unless otherwise specified. All incidentals not specifically mentioned, but required to complete the Work, shall be paid for as part of the Work unit they are related to. All bid items shall be measured and paid in accordance with the appropriate section of the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction unless revised by the Standard or Project Special Provisions.

33.00 SUBMITTALS.

The Contractor shall submit submittal data, as defined in the General Requirements. Submittals shall be required on all items of the submittal schedule contained in the Technical Specifications. At a minimum, the Engineer will retain Two (2) sets, and the Owner One (1) and the approved or rejected copy returned to the contractor.

34.00 COMMUNICATION.

Project will demand the need for communication with properties impacted by work performed. The Contractor shall notify, twenty-four (24) hours in advance of work, all property owners that may be affected by his work. This notification shall include times and duration of access or traffic interruptions. Anticipated interruptions shall be discussed with the City representatives daily.

The purpose of public notification is to reasonably inform the public of the work and to allow the public to schedule activities that may be impacted by the work. Owner, through its Representative, may stop work not consistent with the schedules prepared by the Contractor, which in the opinion of the Owner causes unreasonable hardship to the public.

Contractor shall designate an Information Coordinator who shall be on site during all work hours and shall be responsible for:

1. Preparing a weekly work schedule that includes planned type of work and areas of affected by work. Once schedule is confirmed, the City shall prepare door hangars for the Contractor to distribute the week prior.
2. Communication with adjacent properties of any change to traffic control that may affect their access via written notice for residents. The Contractor is responsible for any follow-up communications with residents after the initial door hangars are provided.
3. Communication with the media or by other means as appropriate, planned/scheduled changes in traffic control and other items that will affect the public traveling through the site. Also communicate with emergency services as to location of work and impacts.
4. Coordinate performed work to be consistent with weekly work schedule.

35.00 PROJECT SIGN.

A standard traffic sign (Orange Diamond, for example) with "Thank you CONTRACTOR, Phone number" shall be placed at a noticeable location in the neighborhood. The Contractor may, if they so choose, place a sign during active construction for their company contact pending approval by City Staff.

End of Section

Technical Specifications

These Technical Specifications supplement the specifications provided in the City Of Rifle Public Works Manual. All provisions, which are not so amended or supplemented, remain in full force and effect.

Submittal Schedule

Submittals on the items below must be accepted by the City Of Rifle prior to commencement of work.

- _____Traffic Control Plans prepared by TCS
- _____Asphalt Mix Design
- _____Striping Product Data

TRAFFIC CONTROL

I General

Submittal Requirements

The Contractor shall prepare a Transportation Management Plan for each portion of the project.

The Contractor shall manage the work zone impacts of the Project in accordance with the Transportation Management Plan (TMP). The TMP shall consist of the Traffic Control Plan (TCP), and Public Information (PI) requirements. The TCP addresses traffic safety and control through the work zone and the PI component requirements shall address communication with the public and concerned stakeholders. The initial TMP shall be submitted at the Pre-construction Conference. The Contractor's superintendent shall implement the TMP.

(a) Traffic Control Plan. The Contractor shall control traffic in accordance with the Traffic Control Plan (TCP), as shown in the Contract. To implement the TCP, the Contractor shall develop and submit a Method for Handling Traffic (MHT) for each different phase of construction which shows the Contractor's proposed construction phasing and proposed traffic control devices consistent with the TCP. If at any time the Contractor desires to change the MHT, it shall be considered a different phase requiring a new MHT.

Any major revisions to the TCP as determined by the Engineer must be authorized by a contract modification order.

Each proposed MHT shall be approved in writing by the Engineer before the corresponding phase of construction will be allowed to begin. The initial MHT shall be submitted at the Pre-construction Conference.

The proposed MHT shall include as a minimum the following:

(1) A detailed diagram which shows the location of all traffic control devices, including advance construction signs and speed limit signs; method, length and time duration for lane closures; and location of flaggers and time duration of the flagging operation. Lane closures shall be kept to a minimum in both length and duration, and cause a minimum of interference to the traveling public, consistent with the work being performed.

(2) A tabulation of all traffic control devices shown in the detailed diagram including, but not limited to: construction signs; vertical panels; vertical panels with light; Type 1 and Type 2 barricades; Type 3 barricades; cones, drum channelizing devices; concrete barrier (temporary); advance warning flashing or sequencing arrow panels. Traffic control devices may be used for more than one operation or phase. However, all devices required for any particular phase must be detailed and tabulated for each phase.

Traffic cone spacing shall be determined as required by the standard plans calculations based on current speed limits. Cone spacing shall not exceed 120 feet. Cones shall be placed a distance of 2 miles on the centerline. The distance and spacing may be adjusted, depending on traffic conditions and terrain, as determined by the Engineer.

(3) A plan for maintaining and controlling pedestrian, bicycle, and other non-vehicular traffic.

(4) A plan for emergency vehicle access.

II Products

Traffic Control Devices shall conform with Section 630 of the CDOT 2019 Standard Specifications

III Execution

The Contractor shall designate an individual, other than the superintendent, to be the Traffic Control Supervisor. The Traffic Control Supervisor shall be certified as a worksite traffic supervisor by either the American Traffic Safety Services Association (ATSSA) or the Colorado Contractors Association (CCA), and shall have a current Department flaggers certificate. A copy of the Traffic Control Supervisor's certifications shall be provided to the Engineer at the Pre-construction Conference. The Contractor's Superintendent and all others serving in a similar supervisory capacity shall have completed a CDOT-approved two-day Traffic Control Supervisor training as offered by the CCA. The one-day ATSSA Traffic Control Technician (TCT) training along with the two-day ATSSA Traffic Control Supervisor training will serve as an alternate. If the alternate is chosen, the Contractor shall provide written evidence that at least an 80 percent score was achieved in both of the two training classes. The certifications of completion or

certifications of achievement for all appropriate staff shall be submitted to the Engineer at the Preconstruction Conference.

The Traffic Control Supervisor's duties shall include:

- (1) Preparing, revising, and implementing each required Method of Handling Traffic in accordance with the Traffic Control Plan.
- (2) Directly supervising project flaggers.
- (3) Coordinating all traffic control operations, including those of subcontractors and suppliers.
- (4) Coordinating project activities with appropriate police and fire control agencies.
- (6) Inspecting traffic control devices on every calendar day that traffic control devices are in use, masked, or turned away from traffic.
These inspections shall include at least one night inspection per week. The TCS or another representative who is certified as a worksite traffic supervisor shall perform these inspections.
- (7) Insuring that traffic control devices are functioning as required.
- (8) Overseeing all requirements covered by the Contract which contribute to the convenience, safety and orderly movement of traffic. Have an up-to-date copy of the MUTCD and applicable standards and specifications available at all times on the project.
- (9) Attending all project scheduling meetings.
- (10) Supervising the cleaning and maintenance of all traffic control devices.

A certified worksite traffic supervisor shall be responsible for Traffic Control Management (TCM) on a 24-hour-per-day basis. The TCS shall be on the work site at all times when Traffic Control Management (TCM) is performed and shall be on call at all times.

Asphalt

I General

The job mix formula developed by the Colorado Department of Transportation on the aggregates to be incorporated in the asphaltic concrete surface must be submitted to the City of Rifle Public Works Director for approval prior to commencing the work.

Hot plant mix surfacing material using aggregates from sources that have not been tested by the CDOT, for the purpose of developing a job mix formula, within nine (9) months prior to the date of intended delivery will be rejected.

The job mix formula with allowable tolerances shall be within the master range specified in the material section of these specifications.

II Products

Asphalt shall be HMA SX75 PG64-22

III Execution

15.3.4. Aggregate Base Course

Base course shall be placed and compacted in four (4) inch to six (6) inch layers on a prepared subgrade surface in conformity with the lines, grades and typical cross sections shown on the plans.

Each layer shall be densified to ninety-five (95) percent of the Modified Proctor when tested in accordance with AASHTO T-180. Water shall be uniformly applied during compaction so as to achieve proper consolidation.

The prepared surface, ready to receive the surface course shall be uniformly graded to design elevation so when tested with a ten (10) foot straight edge the variation above or below the testing edge, between any two (2) contact points with the surface, shall not exceed 1/2" for Class 1 or 1/4" for Class 5 or Class 6 base course. Areas that do not conform with these tolerances shall be reworked.

15.3.9. Flexible Pavement

Along the lip lines of gutters and crosspans sufficient bituminous material shall be deposited so that, after compacting, the wearing surface will remain not less than 1/8" nor more than 1/4" above the concrete. For median curb wearing surface will be from 1/4" to 1/2" below concrete.

Longitudinal joints in the wearing surface layer shall be hand luted and provide a uniform transition, after compacting, between passes with the paving machine. They shall also be positioned such that they will overlay any sublayer longitudinal joint by six (6) inches. Longitudinal joints in the wearing surface shall generally be located as follows:

- A. For two lane roadways - at the center line of the pavement and at the outside edge of the traveled lanes.

- B. For roadways of more than two lanes - at the lane lines and at the outside edge of the travel lanes.

The bituminous mixtures shall be placed within the air temperatures limitation designated herein below and only when the weather conditions otherwise permit the pavement to be properly placed and finished. Asphalt shall be placed at a minimum air and surface temperature of 50°F.

Asphaltic concrete shall be handled and placed on the prepared subgrade in such a manner as to minimize segregation. All segregated areas behind the pavers shall be removed immediately upon discovery and replaced at contractor's expense, with specification material before the initial rolling. If more than fifty (50) square feet of segregated material is ordered removed and replaced in any 500 linear feet of paver width laydown, paving operations shall be discontinued until the source of the segregation has been found and corrected.

After the asphaltic concrete has been spread, struck off and surface irregularities adjusted, it shall be thoroughly and uniformly compacted by rolling. Rolling of the surface shall begin as soon after spreading as rolling will not cause undue displacement cracking or

shoving of the mixture. Rolling shall start at the sides and proceed longitudinally parallel with the street centerline, each trip overlapping one-half (1/2) of the roller width, gradually progressing to the crown of the street. Rolling shall be continued until all roller marks are eliminated and a minimum density of ninety-five (95) percent of a laboratory specimen made in the proportions of the job mix formula has been obtained.

On lifts of asphaltic concrete three (3) inches or more in thickness breakdown rolling shall immediately follow the spreading sequence using rubber tired rollers, free of recapped tires, followed by steel wheel rolling. Field density determinations will be made in accordance with Colorado Procedure #44 and #81. Variation between any two (2) contacts with the surface shall not exceed 3/16" in ten (10) feet. All lumps or depressions exceeding the specified tolerance shall be corrected by removing defective work and replacing it with new material as directed.

15.3.15. Cold Milling, Asphalt Surfaces - All valve boxes, manhole rings and covers within the area to be cold milled shall be lowered sufficiently to clear the milling operation, and then raised to within 1/4 inch of the resurfaced finished grade. Electric and phone vaults shall not be lowered, but shall be protected from damage during the performance of the work.

Cold milling shall be performed using mechanical equipment capable of uniformly routing materials while providing a uniform milled level or tapered surface, varying between 6 1/2 to 8 feet wide and zero to 2 1/2 inches in depth, per pass. Milled edges shall be vertical and true with the alignment of each pass of the equipment.

Electric and phone manholes and vaults are to be left with gradual asphalt tapered approaches in alignment with traffic flow, when resurfacing will not immediately follow the milling operation. Such approaches left to facilitate traffic adjacent to vaults, crosspans, utility manholes, structures, etc., shall be milled out or removed by other acceptable means, immediately proceeding the resurfacing operation. Leaving of abrupt vertical edges that will impede traffic will not be allowed.

Where milling is required along and parallel with concrete gutters the router shall be set to provide a uniform tapered slope. The slope shall vary from two (2) inches below the gutter lip line to daylight with the existing asphalt surface, 6 1/2 to 8 feet from and perpendicular to the gutter flow line.

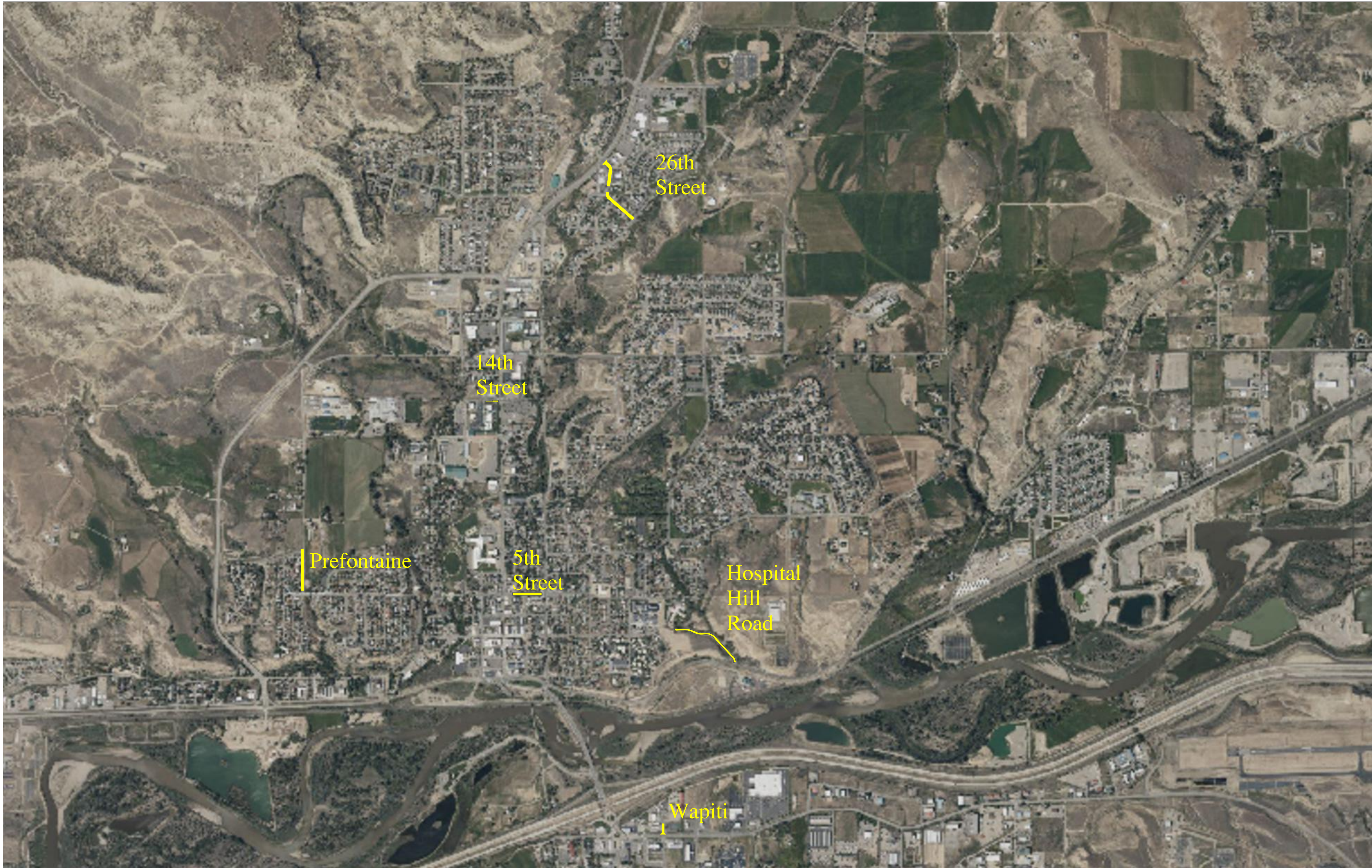
Material recovered during the milling operation shall be disposed of by the contractor at his expense, unless otherwise directed.

Unless otherwise approved, milling and resurfacing shall be performed simultaneously such that both operations are completed during the same day.

Striping

I General

See CDOT Section 708 for water based paints



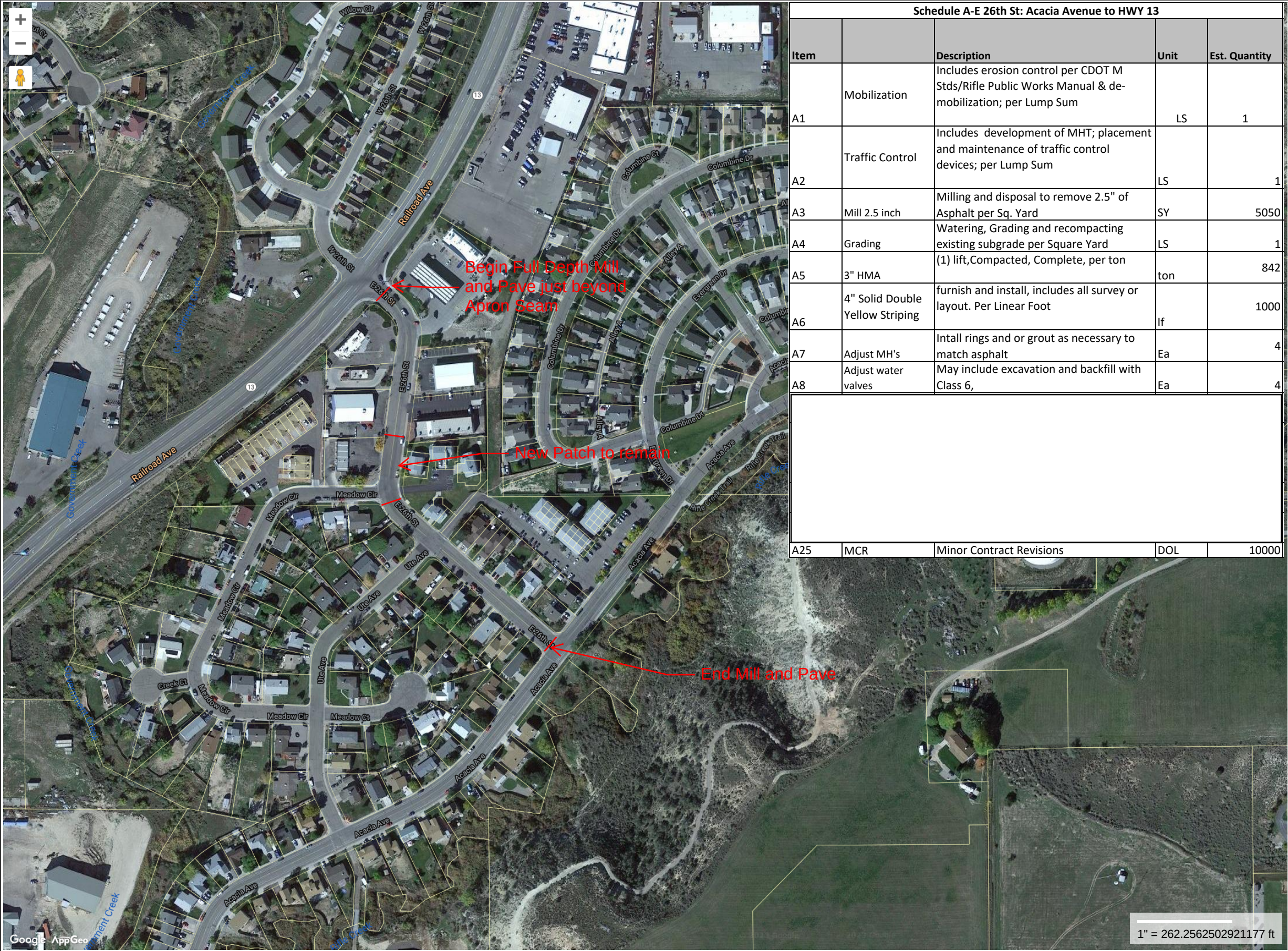
City of Rifle
Engineering
202 Railroad Ave.
Rifle, CO 81650
Ph. (970) 665-6556

CITY OF RIFLE
Crack Sealing 2023

NO.	DATE	REVISION	BY

Date: 3/16/2023
Project No.:
File Name:
Dsgn By:
Drwn By: CS

Drawing



Schedule A-E 26th St: Acacia Avenue to HWY 13				
Item		Description	Unit	Est. Quantity
A1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1
A2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1
A3	Mill 2.5 inch	Milling and disposal to remove 2.5" of Asphalt per Sq. Yard	SY	5050
A4	Grading	Watering, Grading and recompacting existing subgrade per Square Yard	LS	1
A5	3" HMA	(1) lift, Compacted, Complete, per ton	ton	842
A6	4" Solid Double Yellow Striping	furnish and install, includes all survey or layout. Per Linear Foot	If	1000
A7	Adjust MH's	Intall rings and or grout as necessary to match asphalt	Ea	4
A8	Adjust water valves	May include excavation and backfill with Class 6,	Ea	4
A25	MCR	Minor Contract Revisions	DOL	10000

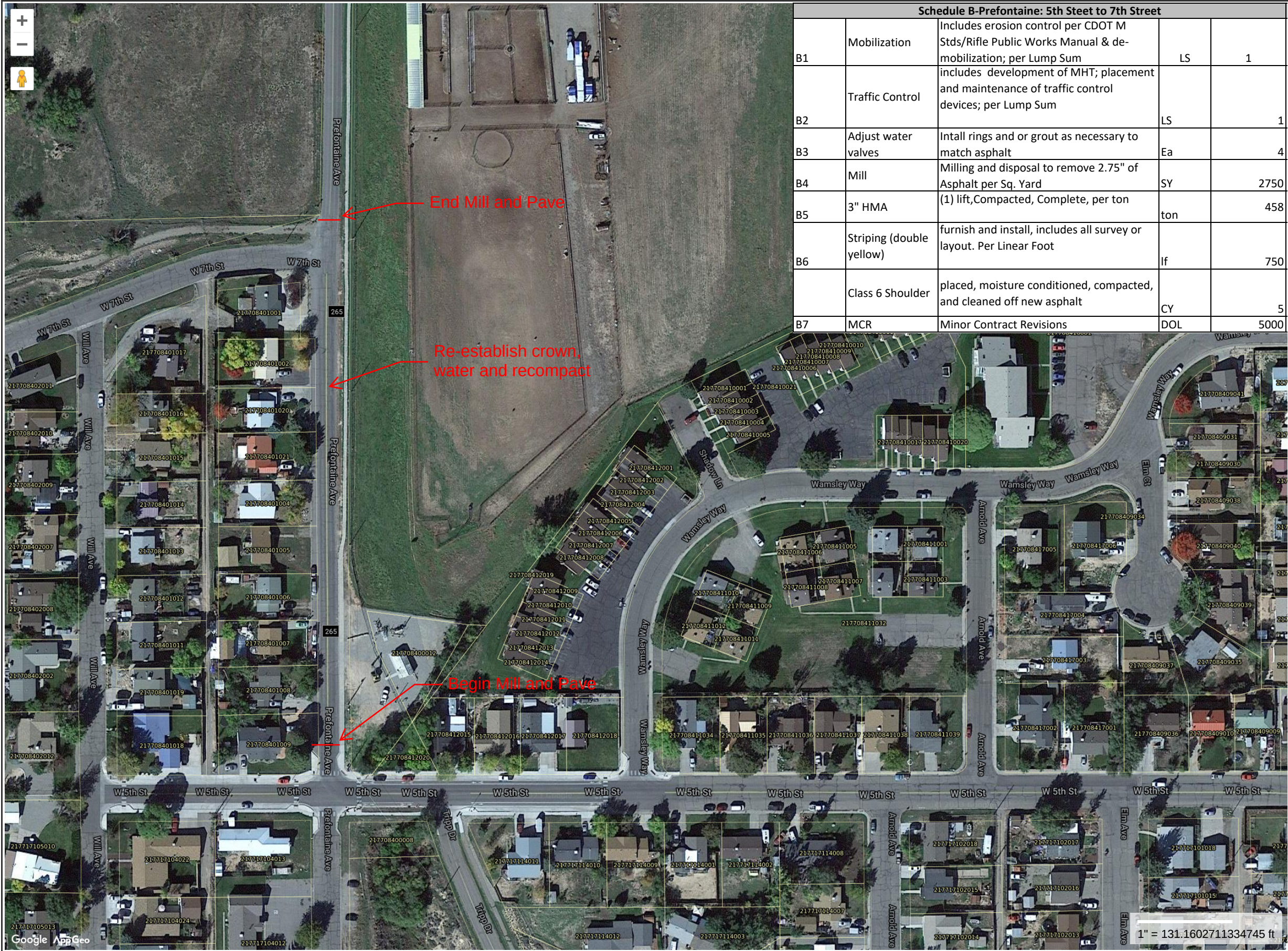


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Geometry updated 9/8/2021
Data updated 9/8/2021

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.



Schedule B-Prefontaine: 5th Steet to 7th Street				
B1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1
B2	Traffic Control	includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1
B3	Adjust water valves	Intall rings and or grout as necessary to match asphalt	Ea	4
B4	Mill	Milling and disposal to remove 2.75" of Asphalt per Sq. Yard	SY	2750
B5	3" HMA	(1) lift,Compacted, Complete, per ton	ton	458
B6	Striping (double yellow)	furnish and install, includes all survey or layout. Per Linear Foot	lf	750
	Class 6 Shoulder	placed, moisture conditioned, compacted, and cleaned off new asphalt	CY	5
B7	MCR	Minor Contract Revisions	DOL	5000

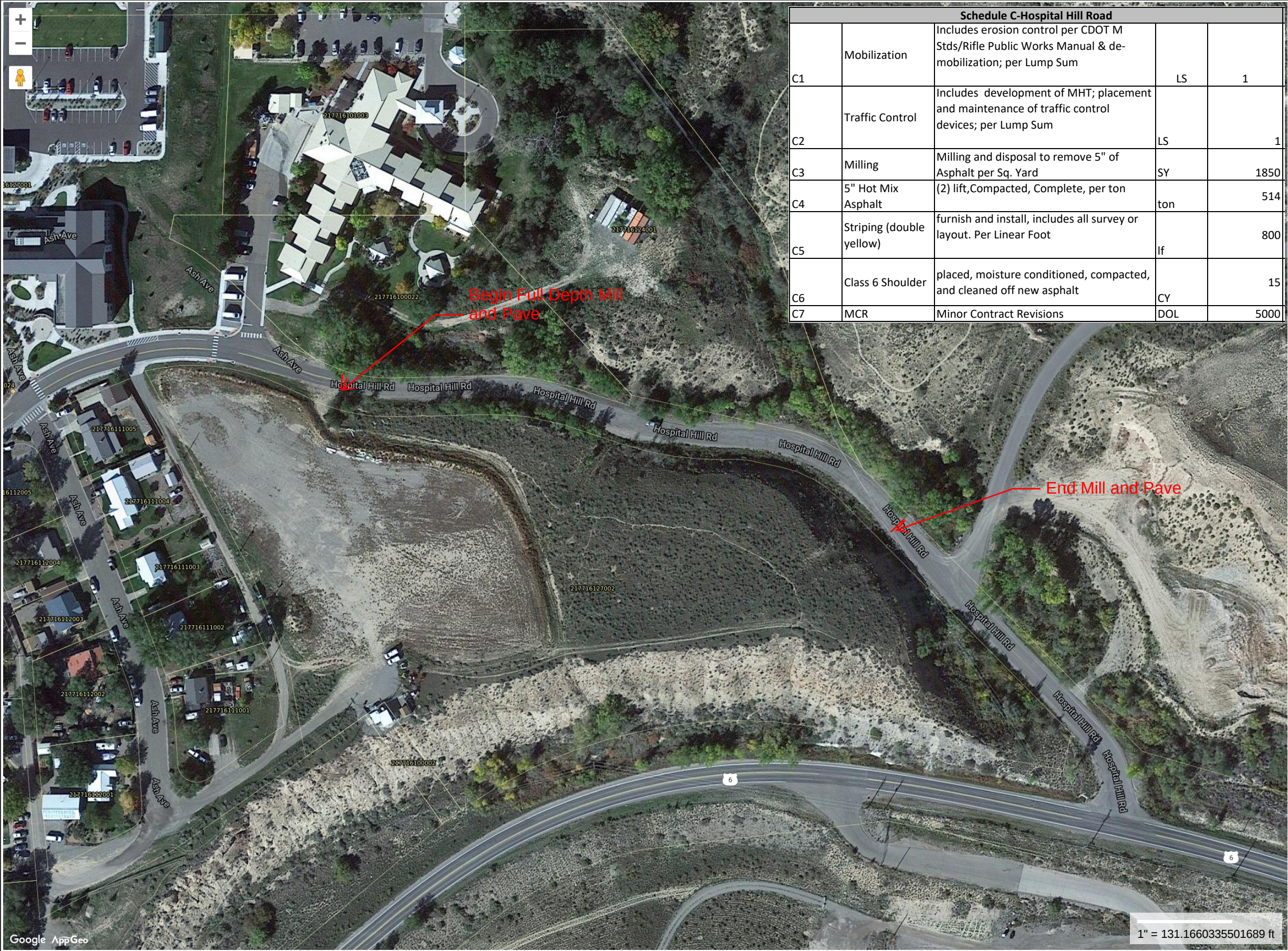


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Schedule E-5th St Alley to Whiteriver				
E1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1
E2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1
E3	Mill Asphalt	Milling to remove 3" of Asphalt per Sq. Yard	SY	2875
E4	4" HMA	(2) lift, Compacted, Complete, per ton	ton	639
E6	Adjust water valves	May include excavation and backfill with Class 6,	Ea	5
	Adjust MH's	Intall rings and or grout as necessary to match asphalt	Ea	2
	Adjust monitering well	May include excavation and backfill with Class 6,	Ea	1
	MCR	Minor Contract Revisions	DOL	20000

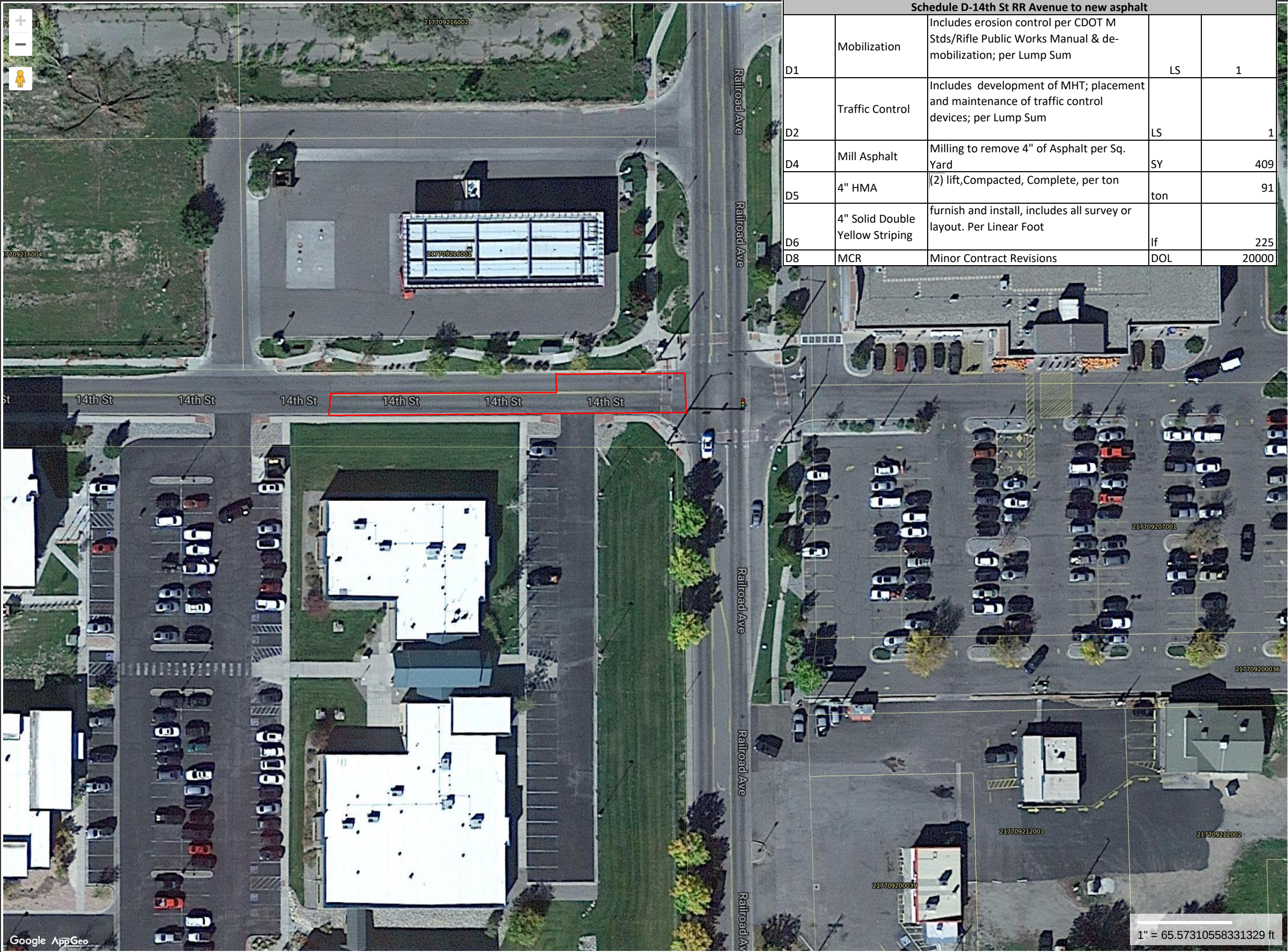


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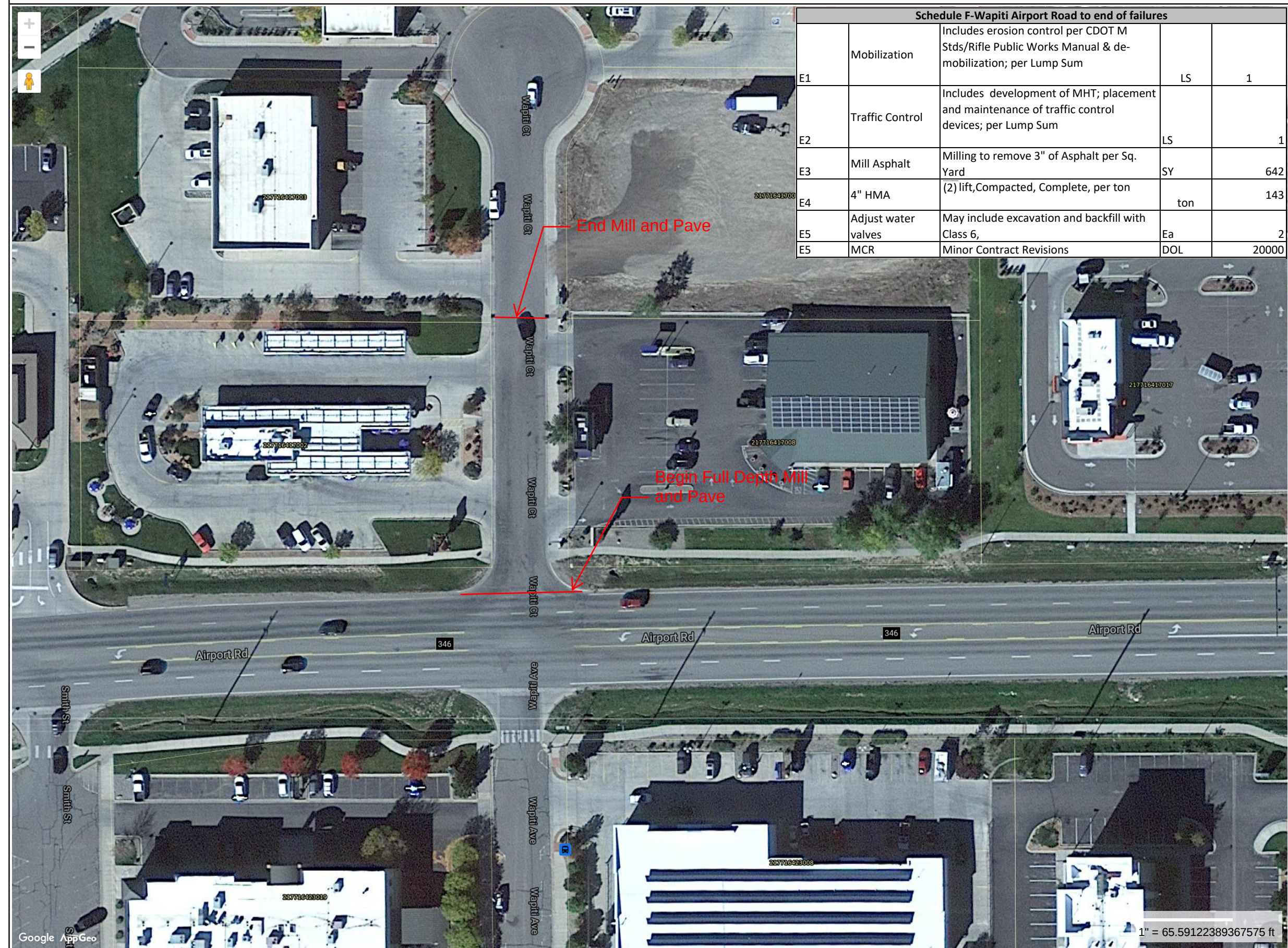


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Geometry updated 9/8/2021
Data updated 9/8/2021

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.



Schedule F-Wapiti Airport Road to end of failures				
E1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1
E2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1
E3	Mill Asphalt	Milling to remove 3" of Asphalt per Sq. Yard	SY	642
E4	4" HMA	(2) lift, Compacted, Complete, per ton	ton	143
E5	Adjust water valves	May include excavation and backfill with Class 6,	Ea	2
E5	MCR	Minor Contract Revisions	DOL	20000



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Geometry updated 9/8/2021
Data updated 9/8/2021

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*projected

Account Number	Account Name	Activity Code(s)		Proposed	Awarded	Final
201-4312-400-320	Professional Services		MS4			\$ -
201-4312-400-320	Professional Services	WQ Updates by Dec		\$ 25,000.00		\$ 25,000.00
201-4312-400-320	Professional Services	Mapping		\$ 6,000.00	\$ 6,000.00	\$ 6,000.00
201-4312-400-320	Professional Services	Inspection Software		\$ 5,650.00	\$ 5,650.00	\$ 5,650.00
				\$ 70,000.00	\$ 11,650.00	\$ 36,650.00

Account Number	Account Name	Activity Code(s)		Proposed	Awarded	Final
201-4312-400-641	Minor Projects	Crack Seal, Preventative Maintenance	Continuing to Crack Fill Rifle. This year will be high traffic streets	\$ 50,000.00	\$ 29,984.57	\$ 35,000.00
201-4312-400-641	Minor Projects	HAS	HAS is a preventative maintenance coating that is a preferable alternative to chip and seal. Roads that have been crack sealed in the last two years will be receiving this coating	\$ 200,000.00	\$ 205,543.51	\$ 170,000.00
201-4312-400-641	Minor Projects	Chip Seal, Preventative Maintenance	This will repair a number of failing asphalt areas that are able to be either patched or overlaid	\$ 450,000.00	\$ -	\$ -
201-4312-400-641	Minor Projects	Alley	Alley maintenance	\$ 50,000.00	\$ 35,000.00	\$ 35,000.00
201-4312-400-642	Minor Projects	Asphalt Improvements	Patching and Overlay	\$ -	\$ 595,321.00	\$ 615,000.00
				\$ 700,000.00	\$ 865,849.08	\$ 855,000.00

Account Number	Account Name	Activity Code(s)		Proposed	Awarded	Final
201-4312-400-733	Traffic Signal		5th Street	\$ 225,000.00	\$ 891,608.01	\$ 900,000.00
				\$ 225,000.00	\$ 891,608.01	

Account Number	Account Name	Activity Code(s)		Proposed	Awarded	Final
201-4312-400-734	Major Projects	Morrow Drive	Design Only, 2025 Construction	\$ 122,023.00	\$ 122,023.00	\$ 78,287.00
201-4312-400-734	Major Projects	Tripp Drive	Design Only	\$ 140,251.00	\$ 140,251.00	\$ 96,515.00
201-4312-400-734	Major Projects	Whiteriver 9th to 16th	Design Only	\$ 112,311.00	\$ 112,311.00	\$ 68,575.00
201-4312-400-734	Major Projects	Ute/5th	Design Only, 2025 Construction	\$ 250,000.00	\$ 194,000.00	\$ 132,304.00
201-4312-400-734	Major Projects	RR Ave 5th to 9th	Design Only, 2024 Construction	\$ 280,539.00	\$ 280,539.00	\$ 192,689.00
				\$ 1,155,124.00	\$ 1,039,144.00	\$ 849,124.00

Account Number	Account Name	Activity Code(s)		Proposed	Awarded	Final
201-4313-400-735	Major Project Devolution Funds	Whiteriver/Centennial Intersection	Costs carried over to 2022	\$ 5,500,000.00	\$ 411,409.00	\$ 650,000.00
201-4313-400-751	Major Project Devolution Funds	Park and Ride	Grants have been applied for, this would be design and construction would be 2023	\$ 2,982,472.48	\$ 104,680.00	\$ 600,000.00
				\$ 8,482,472.48	\$ 516,089.00	\$ 1,250,000.00

Total	\$ 10,632,596.48	\$ 3,983,444.09	\$ 3,890,774.00
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Note: Due to CDOT Agreements both the Park and Ride and the Whiteriver Intersection will carry over into 2024 making the 2023 budget under, these costs will make for a large 2024 budget so it is recommended to remain under the approved 2023 budget

Schedule A-E 26th St: Acacia Avenue to HWY 13					Frontier Paving Inc		Martin Construction		Engineers Estimate	
Item		Description	Unit	Est. Quantity	Unit Price	Total	Unit Price	Total	Unit Price	Total
A1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1	4200	\$ 4,200.00	3400	\$ 3,400.00	\$ 10,000.00	\$ 10,000.00
A2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1	11500	\$ 11,500.00	7900	\$ 7,900.00	\$ 10,000.00	\$ 10,000.00
A3	Mill 2.5 inch	Milling and disposal to remove 2.5" of Asphalt per Sq. Yard	SY	5050	4	\$ 17,675.00	2	\$ 10,100.00	\$ 3.65	\$ 18,432.50
A4	Grading	Watering, Grading and recompacting existing subgrade per Square Yard	LS	1	7700	\$ 7,700.00	5050	\$ 5,050.00	\$ 25,000.00	\$ 25,000.00
A5	3" HMA	(1) lift, Compacted, Complete, per ton	ton	842	147	\$ 123,725.00	135	\$ 113,625.00	\$ 165.00	\$ 138,875.00
A6	4" Solid Double Yellow Striping	furnish and install, includes all survey or layout. Per Linear Foot	lf	1000	2	\$ 2,450.00	4	\$ 4,200.00	\$ 2.41	\$ 2,410.00
A7	Adjust MH's	Intall rings and or grout as necessary to match asphalt	Ea	4	900	\$ 3,600.00	800	\$ 3,200.00	\$ 500.00	\$ 2,000.00
A8	Adjust water valves	May include excavation and backfill with Class 6,	Ea	4	600	\$ 2,400.00	110	\$ 440.00	\$ 500.00	\$ 2,000.00
A25	MCR	Minor Contract Revisions	DOL	10000	1	\$ 10,000.00	-	\$ 10,000.00	\$ 1.00	\$ 10,000.00
Schedule B-Prefontaine: 5th Steet to 7th Street										
B1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1	4200	\$ 4,200.00	3400	\$ 3,400.00	\$ 10,000.00	\$ 10,000.00
B2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1	1650	\$ 1,650.00	7900	\$ 7,900.00	\$ 6,500.00	\$ 6,500.00
B3	Adjust water valves	Intall rings and or grout as necessary to match asphalt	Ea	4	600	\$ 2,400.00	110	\$ 440.00	\$ 500.00	\$ 2,000.00
B4	Mill	Milling and disposal to remove 2.75" of Asphalt per Sq. Yard	SY	2750	5.6	\$ 15,400.00	2.4	\$ 6,600.00	\$ 3.65	\$ 10,037.50
B5	3" HMA	(1) lift, Compacted, Complete, per ton	ton	458	148	\$ 67,833.33	141	\$ 64,625.00	\$ 165.00	\$ 75,625.00
B6	Striping (double yellow)	furnish and install, includes all survey or layout. Per Linear Foot	lf	750	2.4	\$ 1,800.00	5.1	\$ 3,825.00	\$ 2.41	\$ 1,807.50
B7	Class 6 Shoulder	placed, moisture conditioned, compacted, and cleaned off new asphalt	CY	5	275	\$ 1,375.00	400	\$ 2,000.00	\$ 124.00	\$ 620.00
B8	MCR	Minor Contract Revisions	DOL	5000	1	\$ 5,000.00	1	\$ 5,000.00	\$ 1.00	\$ 5,000.00
Schedule C-Hospital Hill Road										
C1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1	4200	\$ 4,200.00	3400	\$ 3,400.00	\$ 10,000.00	\$10,000
C2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1	4550	\$ 4,550.00	7900	\$ 7,900.00	\$ 6,500.00	\$6,500
C3	Milling	Milling and disposal to remove 5" of Asphalt per Sq. Yard	SY	1850	6.65	\$ 12,302.50	3.2	\$ 5,920.00	\$ 3.65	\$6,753
C4	5" Hot Mix Asphalt	(2) lift, Compacted, Complete, per ton	ton	514	155	\$ 79,652.78	146	\$ 75,027.78	\$ 165.00	\$84,792
C5	Striping (double yellow)	furnish and install, includes all survey or layout. Per Linear Foot	lf	800	2.4	\$ 1,920.00	5.4	\$ 4,320.00	\$ 2.41	\$1,928
C6	Class 6 Shoulder	placed, moisture conditioned, compacted, and cleaned off new asphalt	CY	15	220	\$ 3,300.00	160	\$ 2,400.00	\$ 124.00	\$1,860
C7	Class 6 for Grading	placed, moisture conditioned, compacted, and graded	CY	48	130	\$ 6,240.00	87.5	\$ 4,200.00	\$ 97.00	\$4,656
C8	MCR	Minor Contract Revisions	DOL	5000	1	\$ 5,000.00	-	\$ 5,000.00	\$ 1.00	\$5,000

Schedule D-14th St RR Avenue to new asphalt										
D1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1	3750	\$ 3,750.00	3400	\$ 3,400.00	\$ 10,000.00	\$ 10,000.00
D2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1	5300	\$ 5,300.00	1600	\$ 1,600.00	\$ 15,000.00	\$ 15,000.00
D4	Mill Asphalt	Milling to remove 4" of Asphalt per Sq. Yard	SY	409	18	\$ 7,362.00	10	\$ 4,090.00	\$ 3.65	\$ 1,492.85
D5	4" HMA	(1) lift, Compacted, Complete, per ton	ton	91	185	\$ 16,814.44	180	\$ 16,360.00	\$ 165.00	\$ 14,996.67
D6	4" Solid Double Yellow Striping	furnish and install, includes all survey or layout. Per Linear Foot	lf	225	2.4	\$ 540.00	14	\$ 3,150.00	\$ 2.41	\$ 542.25
D8	MCR	Minor Contract Revisions	DOL	20000	1	\$ 20,000.00	1	\$ 20,000.00	\$ 1.00	\$ 20,000.00
Schedule E-5th St Alley to Whiteriver										
E1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1	2500	\$ 2,500.00	3400	\$ 3,400.00	\$ 10,000.00	\$ 10,000.00
E2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1	8250	\$ 8,250.00	4800	\$ 4,800.00	\$ 10,000.00	\$ 10,000.00
E3	Mill Asphalt	Milling to remove 3" of Asphalt per Sq. Yard	SY	2875	5.2	\$ 14,950.00	3.2	\$ 9,200.00	\$ 3.65	\$ 10,493.75
E4	4" HMA	(1) lift, Compacted, Complete, per ton	ton	639	150	\$ 95,833.33	135	\$ 86,250.00	\$ 165.00	\$ 105,416.67
	Adjust water valves	May include excavation and backfill with Class 6,	Ea	5	600	\$ 3,000.00	110	\$ 550.00	\$ 500.00	\$ 2,500.00
	Adjust MH's	Intall rings and or grout as necessary to match asphalt	Ea	2	950	\$ 1,900.00	800	\$ 1,600.00	\$ 500.00	\$ 1,000.00
	Adjust monitering well	May include excavation and backfill with Class 6,	Ea	1	600	\$ 600.00	600	\$ 600.00	\$ 500.00	\$ 500.00
E6	MCR	Minor Contract Revisions	DOL	20000	1	\$ 20,000.00	1	\$ 20,000.00	\$ 1.00	\$ 20,000.00
Schedule F-Wapiti Airport Road to end of failures										
E1	Mobilization	Includes erosion control per CDOT M Stds/Rifle Public Works Manual & de-mobilization; per Lump Sum	LS	1	1850	\$ 1,850.00	3400	\$ 3,400.00	\$ 6,500.00	\$ 6,500.00
E2	Traffic Control	Includes development of MHT; placement and maintenance of traffic control devices; per Lump Sum	LS	1	3330	\$ 3,330.00	1800	\$ 1,800.00	\$ 10,000.00	\$ 10,000.00
E3	Mill Asphalt	Milling to remove 3" of Asphalt per Sq. Yard	SY	642	13	\$ 8,346.00	6.5	\$ 4,173.00	\$ 3.65	\$ 2,343.30
E4	4" HMA	(1) lift, Compacted, Complete, per ton	ton	143	165	\$ 23,540.00	160	\$ 22,826.67	\$ 165.00	\$ 23,540.00
E5	Adjust water valves	May include excavation and backfill with Class 6,	Ea	2	600	\$ 1,200.00	110	\$ 220.00	\$ 500.00	\$ 1,000.00
E5	MCR	Minor Contract Revisions	DOL	20000	1	\$ 20,000.00	1	\$ 20,000.00	\$ 1.00	\$ 20,000.00
Total						\$ 659,139.39		\$ 587,292.44		\$ 757,137.48
Total with Locals Preference						\$ 645,956.60				



**CITY OF RIFLE
PURCHASE REQUEST**

1.	Vendor Name	NEW: W-9 attached ☐
	Martin Construction	

2.	Vendor Address
	2536 Rimrock Ave Suite 400-374 Grand Junction , CO 81505

3.	For the Purchase of (description)
	Construction Services for the 2023 Street and Asphalt Improvements

4.	Amount Requested	Amount Budgeted	Finance Director Verified Funds Avail.
	\$595,321.00	\$450,000	

5.	Dept. Name	General Ledger Acct #
	SIF	201-4312-400-642

6.	Type of Purchase
	☒ Capital Construction
	☐ Capital Construction – Change Order
	☐ Capital Equipment
	☐ Plant Equipment
	☐ Materials, supplies, non-profession/technical services (includes computer/software maint.)
	☐ Professional Services
	☐ Utilities (includes equipment installation and ongoing contracts)
	☐ Land, easements, ROW

7.	Purchasing Process Required (Rifle Municipal Code sections for guidance)		
	☐ Cooperative Purchasing:	Sec 4-3-90	
	☐ Open Market:	Sec. 4-3-40(c)	
	☐ Comparative Pricing:	Sec. 4-3-40(d)	
	☐ Request for Proposal:	Sec. 4-3-40(e)	(attach bid tab)
	☒ Competitive Sealed Bid:	Sec.4-3-40(f)	(attach bid tab & advertisement)
	☐ Sole Source:	Sec. 4-3-40(a)	(attach memo)

8.	Authorization Required	
	☐ City Manager	
	☒ City Council	

9.	Signatures		
	Position	Signature	Date
	Department Director		
	City Manager		
	City Council Approval (meeting date)		
10.	Purchase Order # assigned by Finance		



TABLE 1 - IS A PURCHASE ORDER NECESSARY

<i>Amount of Purchase</i>	<i>Is Purchase Order Needed</i>	<i>Method of Source Selection</i>
\$0.01 - \$10,000	No – Dept Head Approval	No special sourcing
\$10,000.01 - \$25,000	Yes – City Manager Approval	Yes – see table 2 below
\$25,000.01 or Greater	Yes – Council Approval	Yes – see table 2 below

TABLE 2 - METHODS OF SOURCE SELECTION

<i>Methods of source selection</i>	<i>Contract limits</i>
Competitive sealed bidding	Greater than \$50,000.00
Competitive sealed proposals	Greater than \$10,000.00 and less than \$50,000.00.
**Greater than \$50,000 allowed for Construction Manager/General Contractor proposals, or similar type proposal.	
Small purchases	Less than \$10,000.00 - DEPARTMENT HEAD DISCRETION

TABLE 3 - LOCAL VENDOR PREFERENCE

Contract Amount	Primary Preference In City Limits	Secondary Preference In County Out of City
Less than \$1,000	10% discount	5% discount
\$1,001 to \$5,000	8% discount	4% discount
\$5,001 to \$25,000	6% discount	3% discount
\$25,001 to \$100,000	5% discount	2% discount
\$100,000 to \$200,000	4% discount	2.5% discount
\$200,001 to \$500,000	3% discount	1.5% discount
\$500,000 or greater	2% discount	1% discount



Agenda Item #9.b.

Agenda Item Name:

Consider Approval of Ordinance No. 13, Series of 2023 - Ground Lease with Habitat for Humanity - 1st Reading

Presenter:

James S. Neu, City Attorney

Item Description:

Consider Approval of Ordinance No. 13, Series of 2023 - Ground Lease with Habitat for Humanity - 1st Reading

Recommended Action:

Move to approve Ordinance No. 13, Series of 2023 - Ground Lease with Habitat for Humanity on first reading, as presented, and order it to be published by title as required by charter.

Fiscal Impact:

None

Operational Impact:

None

Prior Board Motions:

None

Background Information:

None

Executive Summary:

Please see the attached memo.

Notification Requirements:

None

Prepared By:

Misty Williams, City Clerk

Attachments:

1. 20230705-Memo-Ordinance No. 13, Series of 2023-Habitat Lease
2. 20230705-Ground Lease for Modular Facility with Exhibits
3. Ordinance No. 13-Habitat Lease Approval

Glenwood Springs – Main Office
201 14th Street, Suite 200
P. O. Drawer 2030
Glenwood Springs, CO 81602

Aspen
0133 Prospector Road,
Suite 4102J
Aspen, CO 81611

Montrose
1544 Oxbow Drive
Suite 224
Montrose, CO 81402

James S. Neu
Partner/Shareholder

jsn@mountainlawfirm.com

Direct: 970.928.2121

Office: 970.945.2261

Fax: 970.945.7336

**Direct Mail to Glenwood Springs*

TO: Rifle City Council

FROM: Karp Neu Hanlon, P.C.

RE: Ordinance No. 13, Series of 2023-Ground Lease to Habitat for Humanity

DATE: June 28, 2023

The City has been in discussions with Habitat for Humanity of the Roaring Fork Valley to lease vacant land near the City's wastewater treatment plant for the development of modular housing production facility (the "Facility"). The Facility will encompass up to 60,000 square feet of floor area and will be designed and operated to produce modular housing units for Habitat housing projects and for sale to third parties solely for installation in other deed restricted workforce housing developments in Western Colorado. The City Council has received presentations from Habitat in the past and we now have a final Ground Lease for your consideration.

Habitat will lease approximately 10.5 acres roughly shown on Exhibit B to the Lease in your packet and a more specific description will be prepared prior to execution of the Lease. Habitat is fully responsible for developing the Leased Premises and constructing the Facility and for continuing repair and maintenance. The blanks in Section III of the Lease regarding the completion of the Facility will be filled in when we have that information. Habitat still needs to receive a Conditional Use Permit pursuant to the Rifle Municipal Code which it will do once it prepares the full plans for the Facility. Habitat will hold title to the Facility and the City will assume ownership upon the Termination of the Lease.

Section V of the Lease sets forth the Term of the Lease which comprises a Base Term of twenty years and two options to extend the Term for an additional twenty years and a final ten years, for a total of fifty years. Upon each option to extend the Term, the City can prepare a punch list of maintenance items for Habitat to perform as a condition of the extension to ensure the Facility and Leased Premises remain in good repair.

The City is leasing the Leased Premises to Habitat for nominal Rent to support the purpose of the Facility and the associated jobs it will provide in Rifle. As mentioned, the uses permitted under the Lease are limited to the production of workforce housing in the region for Habitat projects or other deed restricted workforce housing developments in Western Colorado. Section XVI does allow Habitat to repurpose the Facility if the production of workforce housing is not economically viable, however only Habitat may utilize the repurposed Facility for a Habitat ReStore, storage or other uses

Page 2

specifically for Habitat and not for a third party. Any use not benefiting the non-profit purposes of Habitat shall be a default of the Lease.

Habitat has not received all of its funding for the Facility yet and the Lease does allow it to pledge its leasehold interest for bank financing. We will fill in the blank in Section X of the Lease once that information is known, and again, the leasehold interest pledged is limited to the uses mentioned above.

Because the Leased Premises is located on the West UMTRA site that the City received from the State of Colorado Department of Public Health and Environment, it contains deed restrictions related to the remediated nature of the property and those restrictions are stated in Section XXIV of the Lease with which Habitat acknowledges and shall comply.

We have included Ordinance No. 13, Series of 2023 in your packet approving this Lease to Habitat to comply with C.R.S. §31-15-713 that requires leases for a period of more than one year to be approved by ordinance. It is unclear if that statutory requirement applies to home-rule municipalities, but there is no harm in approving the Lease by ordinance.

Representatives of Habitat will be at your meeting to provide you with an update on the project and answer any questions.

**CITY OF RIFLE/HABITAT FOR HUMANITY
MODULAR HOUSING PRODUCTION FACILITY SITE
GROUND LEASE**

THIS GROUND LEASE, is entered into this ____ day of _____, 2023 ("Lease"), by and between the City of Rifle, Colorado, a Colorado home rule municipality whose address is 202 Railroad Avenue, P.O. Box 1908, Rifle, Colorado 81650 ("Lessor" or "the City"), and Habitat for Humanity of the Roaring Fork Valley, Inc., a Colorado nonprofit corporation whose address is 53 Calaway Court, Glenwood Springs, Colorado 81601 ("Habitat").

W I T N E S S E T H:

WHEREAS, the City is the owner of certain property known as and referred to herein as the "Rifle Property" as generally shown on Exhibit A attached hereto and incorporated herein by this reference; and

WHEREAS, the parties desire to set forth the terms and conditions of the ground lease of a portion of the Rifle Property to be known and referred to as the "Leased Premises" as more particularly described on Exhibit B attached hereto and incorporated herein by this reference.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**SECTION I
THE MODULAR FACILITY**

This Lease is entered into by the parties to facilitate Habitat's construction of a Modular Housing Production Facility (the "Modular Facility"). The Modular Facility will encompass up to 60,000 square feet of floor area and shall be designed and operated to produce modular housing units for installation in Habitat workforce housing projects in Western Colorado and for sale to third parties solely for installation in other deed restricted workforce housing developments in Western Colorado. Although design of the Modular Facility will be at Habitat's discretion, Habitat shall work closely with the City to develop a mutually agreeable site plan and architectural drawings that correspond with the City's long-term vision for the Rifle Property. Habitat acknowledges and agrees to abide by all City of Rifle ordinances and regulations regarding design, zoning and construction together with applicable Federal and State regulations and guidelines. Operation of the Modular Facility shall include opportunities for workforce training in cooperation with BOCES or similar educational and job training organizations. Habitat agrees and Covenants to use and occupy the Leased Premises only for the purposes stated in this Section or as allowed in Section XVI, below. The parties agree and acknowledge that the City's inducement to enter into this Lease is Habitat's non-profit status, its mission to assist the housing shortage in the region and the public benefits associated with the Facility.

SECTION II LEASED PREMISES

The City hereby leases unto Habitat for the term and upon the rentals, fees, charges and conditions hereinafter stated the Leased Premises situate in the City of Rifle, County of Garfield, and State of Colorado as shown on Exhibit B (the “Leased Premises”). Upon the completion of construction of the foundation for the Modular Facility, an exhibit showing the actual location of the Modular Facility and adjacent parking and staging areas on the Leased Premises shall be prepared by Habitat and appended to this Lease as Exhibit C. Appurtenant to the Leased Premises, the City hereby further grants to Habitat a right of access across the Rifle Property from adjacent public rights-of-way to the Leased Premises. Further, appurtenant to the Leased Premises, Lessor hereby grants a temporary construction easement reasonably necessary for the construction of the Modular Facility. The parties will negotiate in good faith the details and extent of the temporary construction easement to facilitate Habitat’s construction and memorialize such by separate instrument, if necessary.

SECTION III IMPROVEMENTS

A. Improvements to Leased Premises

Habitat shall, at its own cost and expense, design and construct any site improvements that are necessary to accommodate the construction and operation of the Modular Facility in compliance with the Rifle Municipal Code and as approved by the City in Habitat’s site plan application for the Modular Facility. Further, Habitat shall, at its sole cost and expense, provide all work and materials of whatsoever nature in order to construct a first class Modular Facility on the Leased Premises as described in Section I. Habitat’s obligation for the Modular Facility will include, but is not limited to: (i) architectural and engineering services for design and construction of the Modular Facility; and (ii) all costs associated with constructing, equipping, and operating the Modular Facility. Construction of the Modular Facility shall be substantially completed by _____, 202_____, subject to delays beyond the reasonable control of Habitat. For purposes of this provision, “completion” shall mean the issuance of a final Certificate of Occupancy for the Modular Facility. If the completion of the Modular Facility has not occurred by _____, 202_____, the City shall have the right, at its option, to terminate this Lease and take control of the Leased Premises and any improvements thereon.

B. Title to Modular Facility

Upon expiration or the earlier termination of the Base Term or any extension term(s), as described in Section V. below, title to the Modular Facility, including fixtures, shall vest in and

become the property of the City without any additional compensation or further instrument of conveyance. Habitat shall, if so requested, deliver, at no cost or expense to the City, a confirmatory deed or other document requested by the City. The Modular Facility shall be surrendered and transferred to the City free and clear of all liens or claims, and Habitat shall defend and indemnify the City against all liability or loss arising from such liens or claims. Notwithstanding the foregoing, until such expiration or earlier termination of the Base Term or any extension term(s), Habitat alone shall have the right to deduct all depreciation on Habitat's income tax returns for the Modular Facility and any alterations, improvements or additions thereto and title to the Modular Facility shall be vested in Habitat; provided, however, all of Habitat's right, title and interest in and to the Modular Facility shall be non-separable. Habitat specifically covenants not to remove fixtures or other improvements from the Modular Facility during the Base Term and any extension term(s); provided however, that Habitat may repair, remodel and replace the Modular Facility at its sole discretion.

C. Modular Facility—Conditional Use Plan Approval

This Lease is premised upon a mutually agreeable Conditional Use Plan being approved by the City for the Modular Facility. As an expressed condition of the City granting this Lease, Habitat agrees to comply in full with the City's Public District Zone Code and to obtain a Conditional Use Permit prior to any use of the Leased Premises or the construction of any improvements thereon. Habitat agrees to work in good faith with the City, to the extent practicable, to make the Modular Facility energy efficient in furtherance of the City's long-term Energy Village Goals.

**SECTION IV
ACCESS AND EASEMENTS**

A. Common Areas

Habitat will have the non-exclusive right to use all common areas serving the Modular Facility within the Rifle Property, including roadways.

B. City Access

The City shall have the right enter upon the Leased Premises at all reasonable times (or at any time in the event of an emergency) to examine same for purposes of determining compliance with this Lease and, within one hundred eighty (180) days of the expiration of the Term or any extension term(s), to exhibit the Modular Facility to prospective purchasers and prospective lessees.

SECTION V TERM

A. Base Term/License

The initial term of this Lease shall commence on _____, 2023 and shall be for twenty (20) years extending through _____, 2043 (“Base Term”). Habitat shall have the unrestricted right to extend the term for one (1) additional twenty (20) year period of time and a final term of ten (10) years (50 years total), in accordance with Sections V.B. and C., below.

B. Option to Extend Through the Year 2063

1. First Twenty-Year Extension. Habitat shall have the right to extend the Term of this Lease for a period of twenty (20) years, from _____, 2043, through _____, 2063, provided that Habitat is not in default under terms of this Lease.

2. Option Exercise. Habitat shall notify the City, through the City Manager, in writing of its intention to exercise the option for the first twenty-year extension term at least 120 days prior to the expiration of the initial term.

C. Option to Extend Lease Through the Year 2073

Habitat’s right to extend the Term of this Lease by exercising the additional ten (10) year option period (through _____, 2073) shall follow the same procedures set forth in Section V.B.2 above with the dates adjusted according to the relevant option period.

D. Lessor’s Notice of Failure to Exercise

Notwithstanding the provisions of Sections V.B. or V.C., above, should Habitat fail to exercise an option to extend the term of this Lease within the time provided in Sections V.B. and V.C., above, Habitat shall not be deemed to have forfeited the option until such time as the City shall give Habitat written notice of failure to timely exercise the option, together with notice of a period of thirty (30) days, after the date of said notice, within which Habitat shall continue to have the right to exercise the option to extend the relevant term of this Lease (“Notice of Failure to Exercise”). If Habitat shall not have exercised the option, by written notice to the City within the thirty (30) day period provided in the City’s Notice of Failure to Exercise, the option shall be forfeited and Habitat shall have no further right to extend the relevant term of this Lease.

E. Holding Over

Should Habitat hold over the use of or continue to occupy the Leased Premises after expiration of the Base Term or any of the extension option terms, such holding over shall be deemed a year to year tenancy upon the conditions and agreements as to uses and operations agreed to herein.

F. Title Conveyance and Surrender of Possession.

Upon ending of the Base Term or any extension option term, Habitat shall peaceably surrender possession of the Leased Premises and remove all personal property, without further requirement of notice by the City and title to the Modular Facility and associated improvements shall vest in the City and this Agreement shall be terminated by expiration of term.

G. City's Repair and Maintenance "Punch List".

Upon notice to the City, through the City Manager, in conformance with Section V.B and C, above, that Habitat intends to exercise the option to extend the term of this Lease, defined in Section V.B and C, above, i.e., the City Manager or his or her designee shall provide Habitat with a Punch List of repair and maintenance items to be completed by Habitat, at Habitat's sole expense. The Punch List shall be provided to Habitat a minimum of One Hundred Eighty (180) days before each Option Date, and Habitat shall have the One Hundred Eighty (180) day period of time prior to each Option Date in which to complete repair and maintenance to the reasonable satisfaction of the City. Provided that Habitat is proceeding with necessary diligence to complete the Punch List items, Habitat, upon written notice to the City Manager given prior to the expiration of said One Hundred Eighty (180) day period, may extend the time for completion for a period of time not to exceed an additional sixty (60) days. It is specifically understood by the City and Habitat that the repair and maintenance required by the City, evidenced by the Punch List, shall be for the purpose of maintaining improvements in their original state, reasonable wear and tear excepted, and not for new construction.

SECTION VI RENTS, FEES AND CHARGES

A. Rent

1. Rent. In consideration of the public benefits associated with the Facility and Habitat's non-profit status, during the Base Term Habitat shall pay to the City a base rent of Ten Dollars (\$10.00) per year for the Leased Premises commencing _____, 2023 regardless of the commencement date of Modular Facility operations ("Base Rent"). The Base Rent of Two Hundred Dollars (\$200.00) for each 20-year Lease term and One Hundred Dollars (\$100.00) for the final 10-year term shall be payable in advance. In addition to the Base Rent, the total Rent for

the Leased Premises will include Habitat's share of common area expenses, if any, for the Rifle Property ("Common Area Fees").

2. Payments. All payments due and payable under this Lease shall be payable to the order of the City and delivered to the City Clerk's office at Rifle City Hall. This Lease shall not be terminated for non-payment of Rent unless the City has provided written notice of delinquency to Habitat with a period of ten (10) days in which to pay such delinquency.

B. Water and Sewer System Improvement Fees

The City and Habitat acknowledge that pursuant to the Rifle Municipal Code, water and sewer system improvement fees shall be payable to the City upon the issuance of a building permit for the Modular Facility in accordance with Section 13-4-20(b) of the Rifle Municipal Code. Habitat shall have the right to amortize payments for its total water and sewer system improvement fees in equal monthly installments over the first five (5) years of the initial Term of this Lease, commencing on the first day of each calendar month of the Lease.

C. Common Area Fees.

Habitat shall pay Common Area Fees as may be adopted by the City for similarly situated properties.

SECTION VII
NEW CONSTRUCTION PROCESS AND APPROVAL REQUIREMENTS

A. Plans and Specifications

1. Preliminary Site Plan, Construction Plans. For new construction on the Leased Premises, Habitat shall submit a preliminary site plan which is consistent with its Conditional Use Permit approval, including elevations, to the City for review. The City shall review and reasonably approve the exterior appearance of the Modular Facility, including massing, details and materials to ensure a cohesive design vocabulary for the Rifle Property. Upon written approval by the City or its designee, Habitat shall submit construction plans and associated building permit applications to the City of Rifle Building Department. All construction, development, and remodeling of improvements shall be built or installed in conformance with the Rifle Municipal Code, City, State and Federal codes and requirements in effect at the time of construction, including without limitation, building and fire codes. Plans and specifications approved for construction shall be prepared and certified by registered architects and engineers. Construction shall be in accordance with the plans so approved.

2. Record Drawings (As-Built's), Inventory of Costs. Within thirty (30) days of

issuance of a Certificate of Occupancy, and as part of the building permit process, Habitat shall file with the City Manager hard copies of as-Built record drawings and specifications, showing in-place utilities and all other improvements.

B. Signage

Habitat shall comply in full with the Rifle Municipal Code for the signage for the Modular Facility.

**SECTION VIII
MAINTENANCE AND SECURITY**

A. Maintenance of the Modular Facility

The Modular Facility, including its exterior walls, doors and windows shall be maintained by Habitat at its own expense. Habitat shall maintain the Modular Facility in a safe, neat and attractive condition and in good and serviceable repair. Habitat shall repair all damage to the Modular Facility caused by its operations and/or by its employees, customers, guests, contractors, agents and invitees. Habitat shall be responsible for day-to-day maintenance of the Leased Premises for litter and snow accumulation.

B. Security

Security of the Modular Facility shall be the responsibility of Habitat. Nothing in this Lease shall be construed to impose security obligations upon the City. The City shall not be liable for any loss or damages suffered by Habitat from use and occupancy of and operation upon the Leased Premises.

**SECTION IX
UTILITIES**

A. Utility Availability

1. Electricity and Gas. Habitat shall be responsible for the construction of the connections to the electricity and gas lines, including distribution within the Modular Facility.

2. Water and Sewage. Habitat shall have the same responsibilities for extension of water and sewer service to new construction as stated above, regarding extension of electricity and gas.

3. Telephone and Cable Communications. Habitat shall have the same responsibility for construction of the connectors and service lines necessary to extend telephone and cable services as stated above, regarding extension of electricity and gas.

4. Nonexclusive Access Rights for Installation. With respect to electricity, gas, water, waste, telephone and other communications, the City hereby grants Habitat nonexclusive rights over and across the Rifle Property, along reasonably convenient and direct routes, in order to provide utility services to the Leased Premises.

B. Monthly Service Charges

Habitat shall be liable for all set up fees, monthly service charges, and any other fees charged by utility and communication providers.

SECTION X
MORTGAGE OR OTHER ENCUMBRANCE OF LEASEHOLD INTEREST

A. Limited Permission

Habitat shall have the right to pledge its leasehold interest as security, solely for the purpose of construction of capital improvements to the Leased Premises under terms of this Lease. Such a pledge shall be subject to the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

B. Grant of Interest by Habitat to Lender

At the time of execution of this Lease, Habitat has entered into negotiations with _____ (“Bank”), for. The City agrees to give its consent, as limited in this Section X to: (1) a collateral assignment of Habitat’s leasehold interest; and (2) the conveyance to the Bank, by whatever means agreed to between the Bank and Habitat, of a collateral interest in the Facility and fixtures and Habitat’s personal property located in the Facility or otherwise on the Leased Premises.

C. Limitation on City Consent

The City’s consent shall not be given, however, unless the instrument(s) creating the collateral interest recognize: (1) the City’s ownership of the underlying real estate and the future interest of the City in the Facility; (2) the fee interest in the underlying real property cannot be sold or otherwise conveyed and is not subject to lien for non-payment by Habitat under terms of the Promissory Note or other financing agreement(s) between Habitat and the Bank; (3) should the Bank enter upon and take possession of the Leased Premises and the Facility and manage and

operate the Facility or sell or assign the Lease to a third party or parties for operation of the Facility, such assignment or sale shall only be made with the written consent of the City and within the strictures of the use requirements detailed in Section I, above; and (4) in the event of foreclosure and as an inducement for the City to consent, the City shall have the option and first right of refusal over a *bona fide* offer by a third party, but not the obligation, to purchase the Facility and fixtures, with or without in-place personal property belonging to Habitat, assuming budgeting and appropriation of funds consistent with the Local Government Budget Law of Colorado, C.R.S. §29-1-101, *et seq.* and other applicable law.

SECTION XI LIENS, SECURITY AND CONSTRUCTION NOTICE

A. Liens

In the event any individual or entity attempts to assert a mechanics', materialmen's or other type of lien against the Leased Premises, Habitat shall hold the City harmless from such claim, including the cost of defense, and shall provide the City with a Release of Lien or a Release of Verified Statement of Claim, as appropriate, recorded in the Office of the Garfield County Clerk and Recorder.

B. Landlord's Notice

Habitat and the City recognize that the construction of improvements by Habitat is not secured as a "Public Works" project under the Colorado Contractor's Bonds Lien on Funds Statute, Section 38-26-101, *et seq.*, C.R.S., as amended. The parties further acknowledge that the City's fee interest in the Leased Premises cannot be attached by labor or materialmen in order to secure payment of money due for the provision of labor, materials, supplies or equipment, under the Colorado Mechanic's Lien Law, Section 38-26-107, *et seq.*, C.R.S., as amended. Therefore, the City and Habitat agree to the posting of the Leased Premises, if and when Habitat begins construction of the Modular Facility or commences a remodeling of the Modular Facility or any other improvement authorized under terms of this Lease.

SECTION XII INDEMNITY AND INSURANCE

A. Indemnification/Hold Harmless

1. General. Habitat assumes the risk of loss or damage to the Modular Facility and any associated improvements and contents constructed on the Leased Premises, whether if from

windstorm, fire, earthquake, snow, water runoff, vandalism or any other cause or causes whatsoever. Habitat hereby agrees to indemnify and hold harmless the City, its officers, employees, agents, and assigns from and against all claims and damages of any kind, including attorney's fees, brought by anyone, arising out of this Lease or out of Habitat's or its contractors', agents', employees', or tenants' use and occupancy of and/or operations on the Leased Premises, other than those resulting from the negligence or willful misconduct on the part of the City, its officers, agents, employees, and assigns. To the extent permitted by law, the City hereby agrees to indemnify and hold harmless Habitat, its officers, employees, agents, and assigns from and against all claims and damages of any kind, including attorney's fees, brought by anyone, arising out of design, construction, maintenance or use of the Common Area.

2. Employees. It is expressly understood by the parties that employees of Habitat and its contractors, agents, and tenants are not employees of the City for any purpose, including but not limited to individuals and entities involved in operations and services engaged in by Habitat and Habitat's construction contractors for improvements built under the terms of this Lease.

B. Insurance

Habitat shall provide the insurance required by the document attached and incorporated herein as Exhibit D.

1. Application of Insurance Proceeds. Habitat shall apply insurance proceeds, payable by reason of loss or damage to the Modular Facility to the restoration of the improvements on the Leased Premises. In the event of damage due to an insurable cause and Habitat's application of proceeds to restoration, this Lease shall continue in full force and effect.

2. Workers' Compensation. Habitat shall carry Workers' Compensation Insurance, as required by Colorado law and regulation. The City, its officers, agents or employees shall not be responsible for any claims or actions occasioned by Habitat's failure to comply with the provisions of this Section. Further, during any construction permitted by this Lease, Habitat shall require proof from Habitat's general contractor documenting the contractor's Workers' Compensation coverage. Habitat shall also require the general contractor to provide proof from each subcontractor that the subcontractor is insured, as required by the Colorado Workers' Compensation Act, or, shall require the general contractor to accept coverage responsibility for subcontractors without insurance or with inadequate Workers' Compensation coverage.

SECTION XIII REMEDIES FOLLOWING DEFAULT

A. Habitat's Monetary Default or Lack of Insurance

In the event of breach by Habitat of the monetary or insurance covenants of this Lease, the City shall provide written notice to Habitat and Habitat shall be deemed to be in default as of the date the payment was due and not paid or the date on which proof of insurance was required to be delivered and no proof was supplied to the City unless such default is cured within ten (10) calendar days of Habitat's receipt of the City's written notice. The City, without termination of this Lease, may thereafter proceed in law or equity to seek injunctive relief, specific performance and/or damages incurred as a result of Habitat's default. Where Habitat's default results from failure to provide proof of insurance and Habitat is proceeding with necessary diligence to obtain such proof of insurance, Habitat shall be entitled to an extension of said thirty (30) day minimum cure period, not to exceed however an additional thirty (30) calendar days in which to obtain the required Certificates of Insurance and provide proof of insurance to the City.

Said written notice to cure, identifying the breach and stating the date by which cure is required shall be delivered to Habitat in accordance with Section XX., below. If the identified breach is not cured by 5:00 p.m. on the cure date, or an extension thereof with regard to proof of insurance, the City, at its option and with or without termination of this Lease, may enter and repossess the Leased Premises and all improvements. Such re-entry may be with or without process of law and shall be without liability for trespass or forcible entry and without prejudice to any other remedies to which the City may be entitled. In such event, Habitat agrees to peaceably surrender the Leased Premises to the City, as required by Section XIV., below, without further notice or demand.

B. Habitat's Non-Monetary Default or Abandonment

In the event of breach by Habitat of the performance of any of the conditions, covenants, agreements or obligations hereunder, other than those described in Section XIII.A., above, or in the event of abandonment by Habitat of its operations on the Leased Premises, the City shall provide written notice to Habitat and Habitat shall be deemed to be in default of this Lease as of the date of the City's notice unless the breach is cured within thirty (30) calendar days of Habitat's receipt of the City's written notice. The City, without termination of this Lease, may thereafter proceed in law or equity to seek injunctive relief, specific performance and/or damages incurred as a result of Habitat's default. In the event of any default hereunder by Habitat, other than abandonment, where Habitat is proceeding with necessary diligence to effectuate a remedy, Habitat shall be entitled to an extension of such minimum cure period not to exceed however an additional thirty (30) calendar days in which to remedy the default unless the situation necessitates a greater time period, in which case a reasonable cure period shall be imposed.

Said notice to cure, identifying the breach and stating the date by which cure is required shall be delivered to Habitat in accordance with Section XX., below. If the identified breach is not cured by 5:00 p.m. on the cure date, or an extension thereof with regard to a default other than

abandonment, the City, at its option and with or without termination of this Lease, may enter and repossess the Leased Premises and all improvements. Such re-entry may be with or without process of law and shall be without liability for trespass or forcible entry and without prejudice to any other remedies to which the City may be entitled. In such event, Habitat agrees to peaceably surrender the Leased Premises to the City, as required by Section XIV., below.

C. Notice Period for Summary Proceedings

If the City elects to retake possession of the Leased Premises from Habitat by summary judicial proceedings, demanding payment of Rent and/or other fees and charges and/or proof of insurance and/or compliance with any other term of this Lease or, in the alternative, surrender of possession of the Leased Premises, the parties recognize and agree that the applicable ten (10) or thirty (30) day notice/cure period described above shall control. In such instance, for the purpose of '13-40-104, C.R.S., as amended, the default shall be deemed to have occurred at five o'clock p.m. on the thirtieth day following receipt by Habitat of the City's notice to cure (or the last day of an extended minimum cure period), at which point in time, if Habitat is in possession of the Leased Premises, Habitat shall be holding over without permission of the City and, at the City's option, shall be subject to summary proceedings under the Colorado Forcible Entry and Detainer statutes, Section 13-40-104, *et seq.*, C.R.S., as amended.

D. Waiver

No failure to strictly enforce the terms of this Lease shall be deemed a waiver by either party unless such waiver is in writing and executed by the party against whom enforcement of the waiver is sought. No waiver by either party of any failure of a party to comply with any term or condition of this Lease shall be construed to be a waiver of any other failure by such party to comply with the same or any other term or condition of this Lease.

**SECTION XIV
SURRENDER OF POSSESSION AND TITLE TO IMPROVEMENTS**

Upon expiration of the Base Term, or any extension term(s), or other termination of this Lease, Habitat's right to use and occupy the Leased Premises and all improvements shall cease and Habitat shall surrender the Leased Premises and its rights and privileges under the provisions of this Lease to the City. Habitat shall leave the Leased Premises and improvements in good and serviceable condition, except for normal wear and tear; vacate the premises without unreasonable delay; and execute and deliver to the City a document of conveyance transferring to the City all right, title and interest to the improvements described in Section III., above, free and clear of liens and encumbrances.

SECTION XV COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The right to use and occupy the Leased Premises, shall be exercised in conformity with the statutes, ordinances, codes, rules and regulations pertinent to Habitat's use of the Leased Premises as such may be promulgated from time to time by the City, the State of Colorado, the federal government, and other governmental and quasi governmental entities. Habitat shall be responsible to ensure that its employees, representatives, contractors, agents, and tenants comply with such and shall be liable for any and all fines and penalties assessed to the City as a result of action or omission by Habitat or its employees, representatives, contractors, agents, and tenants with regard to such.

Without limiting the generality of the covenants contained in this Section, Habitat specifically agrees to pay all taxes, if any, levied upon personal property and Habitat's improvements to and possessory interest in the Leased Premises. Habitat shall obtain and pay for all licenses, permits, and other authorizations required in order to make improvements to and operate its business.

SECTION XVI REPURPOSING

A. Repurposing of Modular Facility

In the event that Habitat determines, in its sole discretion, that continued operation of the Modular Facility is not economically viable, Habitat shall be entitled to change the purpose, use and operation of the structure and grounds provided that the new use complies with City ordinances and regulations applicable to the Leased Premises. Habitat shall provide written notice to the City of its intent to repurpose the Modular Facility at least ninety (90) days prior to the commencement of any such new use or uses. As required elsewhere in this Lease, only Habitat may utilize the repurposed Facility for a Habitat ReStore, storage or other uses specifically for Habitat and not for a third party. Any use not benefiting the non-profit purposes of Habitat shall be a default of this Lease.

SECTION XVII QUIET ENJOYMENT BY HABITAT

Upon payment of the rents, fees, and charges provided herein and upon observation of all covenants, warranties, agreements, and conditions of this Lease, Habitat shall have the right to exclusive possession and enjoyment of the Leased Premises during the Base Term and any

extension term(s) of this Lease. Habitat recognizes that fee simple title to the Leased Premises is vested in the City. Habitat agrees that nothing herein shall give Habitat any ownership or option to own the Leased Premises.

SECTION XVIII CONSTRUCTION INCONVENIENCES

Habitat recognizes that from time to time during the Base Term and any extension term(s) of this Lease it may be necessary for the City to engage in construction, expansion, relocation, maintenance and repair of the Rifle Property. Such activity may temporarily inconvenience Habitat's operations and will require accommodation by Habitat; however, the City shall make all reasonable efforts to minimize such inconvenience and ensure that access remains open and adequate parking exists to serve the Modular Facility.

SECTION XIX BINDING UPON SUCCESSORS AND ASSIGNS

All of the covenants, conditions, and agreements contained in this Lease shall be binding upon and inure to the benefit of the respective parties as well as their successors in interest of any kind, including assigns.

SECTION XX NOTICE

Every notice or other communication required by this Lease shall be delivered in writing to the addresses stated below, unless a new address is provided by written notice of one party to the other. Such notice of a change of address or of the identity of the contact person shall not require formal amendment of this Lease.

City of Rifle
c/o City Manager
P.O. Box 1908
Rifle, CO 81650

James S. Neu
Karp Neu Hanlon, P.C.
P.O. Drawer 2030
Glenwood Springs, CO 81602

Habitat for Humanity of the Roaring Fork Valley, Inc.
c/o President
53 Calaway Court
Glenwood Springs, CO 81601

David J. Myler
The Myler Law Firm, P.C.
211 Midland Avenue, Suite 201
Basalt, CO 81621

Delivery shall be made in person, by certified return receipt requested U.S. Mail, or receipted delivery service.

SECTION XXI HEADINGS AND NUMBERING

The Section headings and numbering system used herein are for convenience in referencing and are not intended to define or limit the scope of any provision of this Lease.

SECTION XXII PARTIAL INVALIDITY

To the extent that this Lease may be executed and performance of the obligations of the parties may be accomplished within the intent of this Lease, the terms hereof are severable. If any term or provision of this Lease is declared invalid by a Court of competent jurisdiction or becomes inoperative for any other reason, then the invalidity or failure shall not affect the validity of any other term or provision of this Lease.

SECTION XXIII AMENDMENT

All amendments to this Lease shall be made in writing executed with the same formality as this Lease, except as detailed in Section XX., regarding change of notification information; and in Section VI., above, regarding rent adjustment and licensing, percentage and other fees. No oral amendment shall be of any force or effect whatsoever.

**SECTION XXIV
MATERIALS AND ENVIRONMENTAL ISSUES**

A. Acknowledgments and Responsibilities

Habitat understands and acknowledges that the Leased Premises is located on a former uranium and vanadium processing site and the ore processing operations created radioactive tailings subject to the Uranium Mill Tailings Radiation Control Act (“UMTRCA”). Prior to the City’s ownership of the West UMTRA Site, the Colorado Department of Public Health and Environment owned the property which fell under the jurisdiction of the United States Department of Energy (“DOE”) for remediation under UMTRCA. The surface of the West UMTRA Site has been fully remediated by the DOE and pursuant to the Final Environmental Assessment of Ground Water Compliance at the New Rifle, Colorado UMTRA Project Site dated July 2003, the groundwater compliance strategy is natural flushing in conjunction with institutional controls and monitoring. Information regarding the West UMTRA Site (also known as the New Rifle Site) and the Leased Premises can be found at the DOE Office of Legacy Management website at http://www.lm.doe.gov/Rifle/Old_Processing/Documents.aspx. Habitat acknowledges that it has performed adequate due diligence and accepts the Leased Premises “as is” and assumes any associated risks related to the environmental condition of the Leased Premises. Habitat agrees that this Lease is subordinate to the restrictions set forth in the deed conveying the West UMTRA Site to the City and that a condition of this Lease is Habitat’s compliance with the conditions of approval of DOE for the Leased Premises described in Exhibit B attached hereto and incorporated herein by this reference.

The City makes no covenants or warranties, express or implied, regarding the lack of any other environmental degradation. Correction of such conditions or those stated above, if required by the authorized agency, shall be in accordance with pertinent statutory and regulatory law. Habitat shall not be responsible for the cost of investigation or correction unless such is required due to Habitat’s or its employee’s, contractor’s, subcontractor’s, agent’s or assignee’s use and occupancy of and/or operations on the Leased Premises.

B. Limitations on Habitat’s use of Hazardous Materials

Habitat shall not generate, use, handle, store, or dispose of hazardous materials on the Leased Premises except those materials commonly utilized in a Modular Facility which shall be generated, used, handled, stored or disposed of consistently with the applicable laws, orders, rules, ordinances and regulations of the authorities and agencies. No use of the Leased Premises which requires additional fire protection or environmental regulation shall be permitted without advance approval by the City.

**SECTION XXV
ATTORNEY'S FEES**

Should this Lease become the subject of litigation to resolve a claim of default in performance by the City or Habitat, the prevailing party, in addition to such other relief as may be granted, shall be entitled to attorney fees, expenses, and court costs. All rights concerning fees and costs shall survive termination of this Lease.

**SECTION XXVI
CONTROLLING LAW**

This Lease shall be governed by the laws of the State of Colorado and venue for all actions shall be in Garfield County, Colorado.

**SECTION XXVII
RECORDING**

Upon execution by the parties, this Lease shall be recorded in the records of the Garfield County Clerk and Recorder.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals to be effective _____, 2023 no matter the date of execution.

CITY OF RIFLE, COLORADO

Mayor

[CITY SEAL]

ATTEST:

City Clerk

HABITAT FOR HUMANITY OF THE
ROARING FORK VALLEY, INC.

By _____
Title _____

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me this ____ day of _____,
2023, by _____ as _____ of Habitat for Humanity of the
Roaring Fork Valley, Inc., a Colorado nonprofit corporation.

WITNESS MY HAND AND OFFICIAL SEAL, the day and year above written.

[NOTARIAL SEAL]

Notary Public

My commission expires:

EXHIBIT “A”

Legal description of Rifle Property

EXHIBIT “B”

Description of Leased Premises

EXHIBIT “C”

As-built location of Modular Facility

EXHIBIT “D”

Insurance Information

A:\1899\990557\Energy Park\Coccoloba\DWG\Energy Innovation Center Phase 2\CONTOUR ADD.dwg Saved: Wed, 22 Aug 2012 5:10pm Plotted: Wed, 22 Aug 2012 5:12pm ibordick

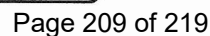


EXHIBIT B Leased Premises

1:\999\999\999\Energy Park\Contract\999\Energy Innovation Center Phase 2 CONTOUR ADDING Survey, 22 Aug 2012 11:32am Plotted, 22 Aug 2012 1:23pm Jansen

RELEASED
FOR
BID
7-17-12

SCHUESER GORDON MEYER
161 W. GLENWOOD AVENUE, SUITE 200
GLENNWOOD SPRINGS, COLORADO 81601
(970) 945-1004 (970) 925-8723
FAX (970) 925-8723
SCHUESER | GORDON | MEYER
CREATED BY: J. JANSSEN

CITY OF RIFLE Phase 2
ENERGY INNOVATION CENTER

DATE	BY	REVISION
8/10/2012	JLJ/JP	ADDED CONTOUR AND DETAILS

DATE	BY	REVISION
8/10/2012	JLJ/JP	ADDED CONTOUR AND DETAILS

C2
OF 10

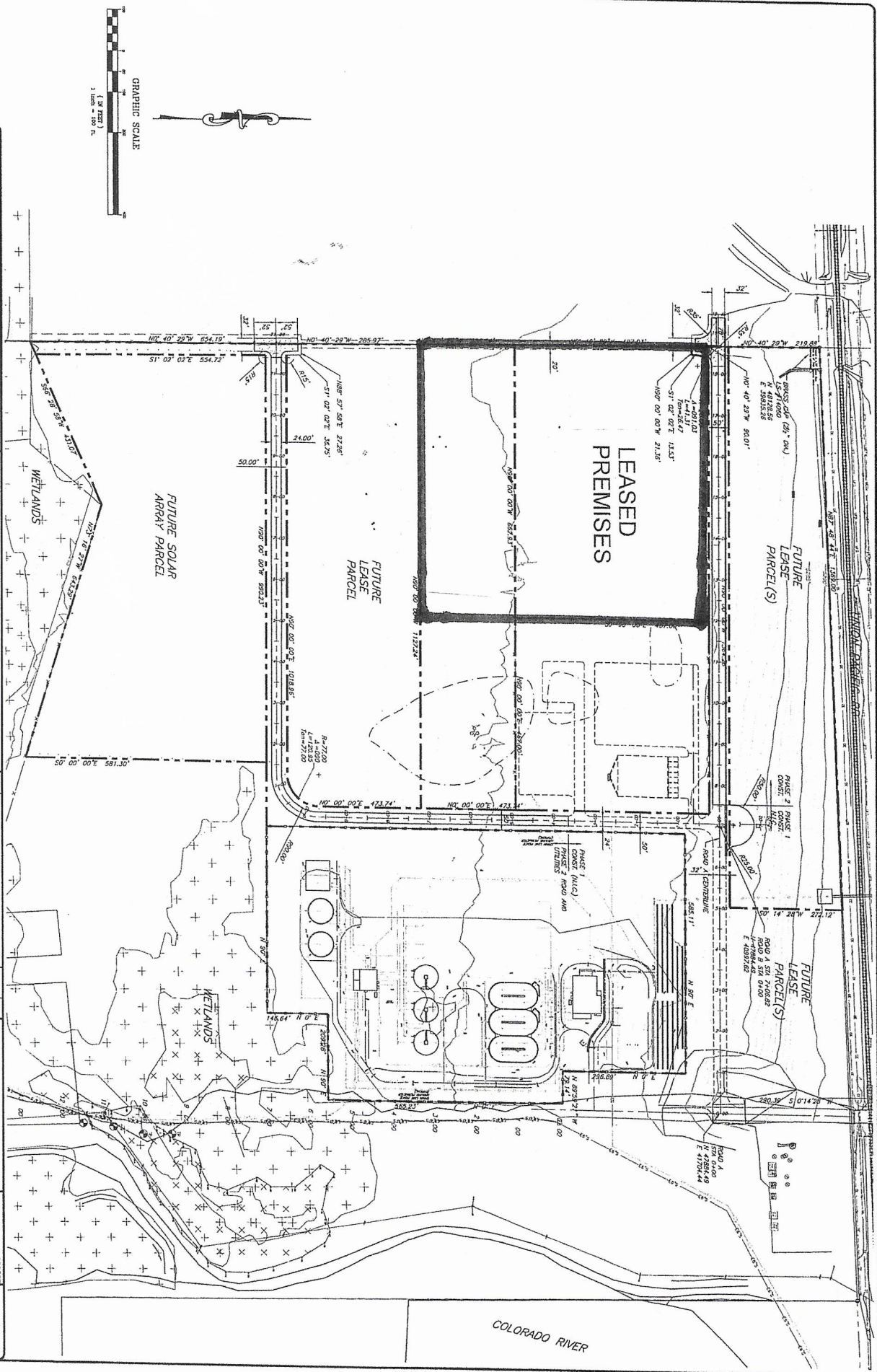


EXHIBIT "D"

The following provisions shall apply to Lessee pursuant to this Lease. In order to use or occupy the Leased Premises, the terms of this Exhibit must be satisfied prior to the commencement of work on the Leased Premises. Lessee shall procure and maintain, during the full term of the Lease all insurance required herein.

The following insurance requirements are minimum requirements and in no way limit the hold harmless and indemnity covenants contained in the Lease. The City in no way warrants that the minimum limits contained herein are sufficient to protect the Lessee from liabilities that might arise, and Lessee is free to purchase additional insurance.

Minimum Types and Limits of Insurance: Lessee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

Commercial General Liability- Occurrence Form

The policy shall be endorsed to include the following additional insured language: "The City of Rifle, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers shall be named as additional insured's with respect to liability arising out of the activities performed by, or on behalf of the Lessee/Operator."

Minimum Limits:

General Aggregate	\$2,000,000
Products/ Completed Operations Aggregate	\$2,000,000
Each Occurrence Limit	\$1,000,000
Personal/Advertising Injury	\$1,000,000

Worker's Compensation and Employers' Liability

Minimum Limits:

Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	\$100,000
	\$100,000
	\$500,000

Builders' Risk Insurance or Installation Floater, as appropriate

Minimum Limits:

Total Construction Value

Additional Insurance Requirements: The policies shall include, or be endorsed to include, the following provisions:

On insurance policies where the City is named as an additional insured, the City shall be an additional insured to the full limits of liability purchased by the Lessee even if those limits of liability are in excess of those required by the Lease.

The Lessee's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

For the provisions of **Commercial General Liability** set forth above, the insurance policy must include contractual liability coverage.

All insurance shall be issued by companies authorized to do business in the State of Colorado and written on forms satisfactory to, filed with and approved by the Colorado Department of Insurance.

Notice of Cancellation: Each insurance policy shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the City, except when cancellation is for nonpayment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to the City Manager, at the address contained in the "Notice" provision of the Lease.

Verification of Coverage: The Lessee shall furnish the City with certification of insurance (ACORD form or equivalent approved by the City).

The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the City Manager before work commences. Each insurance policy must be in effect at or prior to commencement of work on the Leased Premises and remain in effect for the duration of the construction project and for two (2) years after completion of the construction project on the Leased Premises or for the term of the Lease, as appropriate. Failure to maintain the insurance policies or to provide evidence of renewal is a material breach of the Lease.

All certificates and any required endorsement shall be sent directly to the City Manager. The City reserves the right to require complete, certified copies of all insurance policies any time.

Approval: Any modification or variation from the insurance requirements shall be made by the Office of the City Manager after consultation with the City Attorney's Office. Such action will not require a formal contract amendment, but may be made by administrative action.

CITY OF RIFLE, COLORADO
ORDINANCE NO. 13
SERIES OF 2023

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO, APPROVING A
GROUND LEASE WITH HABITAT FOR HUMANITY OF THE ROARING
FORK VALLEY.

WHEREAS, the City of Rifle (“Rifle” or the “City”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Rifle Home Rule Charter; and

WHEREAS, Habitat for Humanity of the Roaring Fork Valley (“Habitat”) approached the City to lease land on which it would construct a 60,000 square foot facility to be designed and operated to produce modular housing units for Habitat projects and for sale to third parties solely for installation in other deed restricted workforce housing developments in Western Colorado; and

WHEREAS, the City supports Habitat’s mission and the local jobs the Facility will create and desires to lease approximately 10.5 acres of vacant land to Habitat on property owned by the City near its wastewater treatment plant with Garfield County Assessor Parcel No. 217718400314; and

WHEREAS, C.R.S. §31-15-713 requires any lease for a period of more than one year to be approved by ordinance and the City desires to comply with this statutory requirement regardless if it applies to home-rule municipalities; and

WHEREAS, the City Council desires to approve a Ground Lease to Habitat.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF RIFLE, COLORADO, ORDAINS THAT:

1. Incorporation. The Rifle City Council adopts the foregoing recitals and conclusions as facts and determinations and incorporates them by reference as if set forth in full herein.

2. Approval of Lease. The City hereby approves the Ground Lease to Habitat for Humanity of the Roaring Fork Valley attached hereto and incorporated herein by this reference.

INTRODUCED on July 5, 2023, read by title, passed on first reading without amendment, and ordered published as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on July 19, 2023, passed without amendment, approved and ordered published in full as required by Charter.

Dated this _____ day of _____, 2023.

CITY OF RIFLE, COLORADO

By: _____
Mayor

ATTEST:

City Clerk



Agenda Item #10.a.

Agenda Item Name:

Report to City Manager

Presenter:

Tommy Klein, City Manager

Item Description:

Staff report on notable tasks completed within the individual departments.

Recommended Action:

No action necessary

Fiscal Impact:

N/A

Operational Impact:

N/A

Prior Board Motions:

N/A

Background Information:

N/A

Executive Summary:

Work Report to City Manager
06/30/2023

Notification Requirements:

N/A

Prepared By:

Alexis Ramirez, Deputy City Clerk

Attachments:

1. Report to City Manager 06.30.2023

WORK REPORT TO CITY MANAGER

06.30.2023

PIO

- Continuing updates on website and social media on local issues and citizen concerns. Lots of construction and now fires. And so it begins....
- Attended GRIT meeting.
- Press releases on holiday closures and July 3rd festivities.
- Posted the link to the water quality report. Robert did a great job with it and people seem very appreciative.
- Attended Garfield County PIO Group meeting. We received our certifications for Stop the Bleed and had much discussion about fires!

COURT

- Handled 63 adult cases on June 21 court day.
- Held 07 telephone hearings with inmates in custody.
- Attended two-day roundtable hosted by the National Association of Court Management regarding how current trends may affect municipal courts. Other states are seeing the same issues as us in Colorado.

PUBLIC WORK

Projects

- Continued development of In-house plans for Veteran's Memorial, Phase I
- CAD rendering of City of Rifle Specifications Manual drawings – 15% complete
- Collection of GPS data for GIS mapping
- Planning and evaluation of software solutions for Asset Management
- Planning and contract preparation for Demolition of Grand Mesa Water Treatment Plant

Fleet

- Normal fleet maintenance operations.
- Working with Enterprise Fleet Management in budget planning for 2024 Fleet Budget planning
- Repair maintenance of pins & bushings on John Deere mini excavator
- Completed major repair of Unit 1402, International Tandem-axle dump truck – fuel system issues making it undriveable.

Operations & Maintenance

- Pothole repair and street maintenance
- Removed and replaced approx. 50 LF of Curb/gutter in the 200 Block of E. 5th.
- Safety Training: Lock-out/Tag-out, Hazardous Chemical Handling, & Confined Space Training
- Repaired settlement problem in 600 Block of Railroad.

Two weeks Look-Ahead

- Street maintenance and large patching
- Speed limit sign implementation.

ENGINEERING

Project	Status Update	Scope	Bid	Construction Time	Cost Estimate
River bridge Overlay	SGM is putting a design proposal together	Bridge Joints and Overlay	TBD	Fall '24	TBD
Airport Water Tank	Tank is nearly completely erected	New .5MG Water Tank and Rehabilitation of Existing Water Tank	Closed	2023	\$3.8M
Gateway Intersection	Still awaiting CDOT review at which point the bid will be posted	Improve Traffic and Pedestrian Safety at the Intersection of Centennial and Whiteriver	June '23	Fall '23-Spring '24	\$3.5M
Park and Ride	Draft agreements are complete and the project is going to the June Planning Commission Meeting	New Park and Ride with extension of streets and utilities	Late Summer '23	Fall '23 to Spring '24	\$3.5M
Tripp Drive	Survey and Geotechnical Complete	Rebuild Road and Stabilize Bank	Spring '26	2026	\$350k
Morrow Drive	Survey and Geotechnical Complete	Rebuild Road and Stabilize Bank	Spring '25	2025	\$1M
Whiteriver Ave from 9th Street to 16th Street	Survey and Geotechnical Complete	Rebuild Road, Stabilize Bank, Replace Waterline	Spring '25	2025	\$1.1M
Ute Avenue and 5th Street	Design grading complete and working on utility layout	Replace and Rehabilitate Sewer line, New Waterline, Rebuild Streets and add Sidewalk	Spring '24	2024	\$1.2M
Paradise Island	Easement documents drafted	TBD	TBD	TBD	TBD
Penwell Transmission Line	Utilities are X-raying existing line	Water Transmission Line from plants to tanks	TBD	TBD	\$8M
River bridge Waterline	Under contract and acquiring bids and permits	Repair Waterline and add Restraints	Closed	Summer '23	\$150k
Railroad Avenue 5th Street to 9th Street	Targeting design and budget est. completion in July	Rehab Sewer line, Replace Waterline, Rebuild Street and Sidewalk	Spring '24	Summer '24	\$2.5M
Railroad Avenue and 5th Street Intersection	Beginning after fair	New Signal, Sidewalks and Landscaping	Closed	Aug-October	\$600k

2023 Street Improvements	Bids re posted for Award July 5 th	Prefontaine, 16th St, 7th St, Wapiti and Airport Road	May -23	Summer '23	
2023 Crack Sealing	Parking lots ongoing, high traffic streets will be performed at night	16th St, 7th St, Airport Road, and Parks Parking Lots	Awarded	June	\$75k
2023 HA5	Expected to begin last 2 weeks of July	Deerfield Subdivision and Highlands East	Closed	July	\$200k
Park Avenue Extension	No further progress, land purchase	Bridge and Connection to Centennial Parkways	TBD	TBD	\$2M
Intersection of Park Avenue and Third Street	Plan to incorporate into 2024 Street Repairs	Sidewalk, Waterline, Street Rebuild	TBD	TBD	\$750k
Stormwater SEP	Public notice complete, RFP ongoing	Study and Improvements of Stormwater	TBD	TBD	TBD
Alley Maintenance	Will put together a bid in Spring	Grading and Mag Chloride	Spring '23	Summer '23	\$50k
Park Hill Retaining Wall	Bids posted, Award on August 2 nd Council	Retaining wall fixing ROW and private issue	May '23	Summer '23	\$250k

Financials

For the Street Improvement Fund:

- Professional Services for stormwater compliance currently includes mapping software and consultation, inspection software and Public Works Manual Updates
 - This consists of an estimated \$36,650.00 which is \$33,350.00 under budget.
- Minor Projects includes Crack Seal, HA5, Chip Seal, Alley Maintenance, and Street Repairs
 - Due to contractor availability, no chip seal bids were received so the minor projects line is in much better shape than projected for 2023 but the chip seal is recommended to go back out to bid for 2024.
 - This places minor projects a projected \$165,000 over budget.
- Traffic Signals includes replacement of the 5th Street Signal is over budget by approximately \$200k if the URA is used as a supplement.
- Major Projects Include Designs of Streets
 - All this work was awarded in 2022, contracts include construction management which will take place in later years so Major Projects are projected to be \$280,000 below budget.
- Capital Projects are the Whiteriver and Centennial intersection and Park and Ride.
 - The Intersection is anticipated to be below the budgeted amount.
 - The Park and Ride is likely not going to have an executed IGA between CDOT and the City soon enough to begin in 2023 meaning its costs will be incurred in 2024.

Only because of projects rolling over into 2024 and later years, the Street Fund is anticipated to be under the budgeted amount pending the bid for the gateway intersection.

Administration

- **ROW permits and process**-Permits have began issuance under new code and software updates are anticipated to be live no later than September 13th
- **GIS** -Stormwater maps have been updated,
- **Stormwater**-Updates to mapping are ongoing and the design standards will be updated in 2024.
- **PWM and Eng. Standards**-Changes to the Public Works Manual have begun as Supplemental Conditions. This will continue until the Manual is fully updated which is expected in 2024.
- **2024 budget**-The SIF budget and projects for water and sewer are planned to be compiled by July 14th